

In the Matter of:

ESTATE OF PATRICK HARMON, SR., et al.

VS

SALT LAKE CITY CORPORATION, et al.

CLINTON FOX

June 17, 2022

RED ROCK REPORTING
P.O. BOX 3265
SALT LAKE CITY, UT 84110
385.707.7254

<p>IN THE UNITED STATES DISTRICT COURT STATE OF UTAH, CENTRAL DIVISION</p> <p>ESTATE OF PATRICK HARMON,) SR.; PATRICK HARMON II,) No. 2:19-cv-00553-HCN-CMR as Personal Representative) of the Estate of Patrick) Harmon, Sr., and heir of) District Judge: Patrick Harmon Sr., TASHA) Howard C. Nielsen, Jr. SMITH, as heir of Patrick) Harmon, Sr.,) Magistrate Judge: Plaintiffs,) Cecilia Mr. Romero) vs.)) SALT LAKE CITY CORPORATION,) a municipality; and OFFICER) CLINTON FOX, in his) individual capacity,)) DEFENDANTS.) ----- DEPOSITION OF CLINTON FOX DEISS LAW SALT LAKE CITY, UTAH JUNE 17, 2022</p>	Page 3 <table> <tr> <td>1</td> <td>CLINTON FOX, WITNESS</td> <td>PAGE</td> </tr> <tr> <td>2</td> <td>INDEX OF EXAMINATION</td> <td>5</td> </tr> <tr> <td>3</td> <td>Examination by Mr. Lutz</td> <td>209</td> </tr> <tr> <td>4</td> <td>Reporter Certificate</td> <td>211</td> </tr> <tr> <td>5</td> <td>Witness Certificate</td> <td></td> </tr> <tr> <td>6</td> <td></td> <td></td> </tr> <tr> <td>7</td> <td>INDEX OF EXHIBITS</td> <td></td> </tr> <tr> <td></td> <td>EXHIBIT</td> <td></td> </tr> <tr> <td>8</td> <td></td> <td></td> </tr> <tr> <td>9</td> <td>No. 8 Training Report History Bates-stamped SLCC000561-573</td> <td>51</td> </tr> <tr> <td>10</td> <td>No. 9 Compilation of Photos and General Offense Reports Bates-stamped SLCC000576-000603</td> <td>66</td> </tr> <tr> <td>11</td> <td>No. 10 Taser X26P CEW User Manual</td> <td>88</td> </tr> <tr> <td>12</td> <td>No. 11 Salt Lake City Police Department Polices and Procedures Manual</td> <td>112</td> </tr> <tr> <td>13</td> <td></td> <td></td> </tr> <tr> <td>14</td> <td>No. 12 Hand Drawn Diagram</td> <td>132</td> </tr> <tr> <td>15</td> <td>No. 13 Salt Lake City Police Department General Offense Hardcopy Bates-stamped SLCC000121</td> <td>156</td> </tr> <tr> <td>16</td> <td></td> <td></td> </tr> <tr> <td>17</td> <td>No. 14 Color Photo Bates-stamped SLCC001590</td> <td>162</td> </tr> <tr> <td>18</td> <td>No. 15 Color Photo Bates-stamped SLCC001592</td> <td>167</td> </tr> <tr> <td>19</td> <td>No. 16 Color Photo Bates-stamped SLCC001619</td> <td>168</td> </tr> <tr> <td>20</td> <td>No. 17 Color Photo Bates-stamped SLCC001610</td> <td>168</td> </tr> <tr> <td>21</td> <td>No. 18 Internal Affairs Unit Complaint Disposition Form Bates-stamped SLCC000635</td> <td>178</td> </tr> <tr> <td>22</td> <td></td> <td></td> </tr> <tr> <td>23</td> <td>No. 19 Police Department Memorandum Bates-stamped SLCC000647-648</td> <td>180</td> </tr> <tr> <td>24</td> <td></td> <td></td> </tr> <tr> <td>25</td> <td></td> <td></td> </tr> </table>	1	CLINTON FOX, WITNESS	PAGE	2	INDEX OF EXAMINATION	5	3	Examination by Mr. Lutz	209	4	Reporter Certificate	211	5	Witness Certificate		6			7	INDEX OF EXHIBITS			EXHIBIT		8			9	No. 8 Training Report History Bates-stamped SLCC000561-573	51	10	No. 9 Compilation of Photos and General Offense Reports Bates-stamped SLCC000576-000603	66	11	No. 10 Taser X26P CEW User Manual	88	12	No. 11 Salt Lake City Police Department Polices and Procedures Manual	112	13			14	No. 12 Hand Drawn Diagram	132	15	No. 13 Salt Lake City Police Department General Offense Hardcopy Bates-stamped SLCC000121	156	16			17	No. 14 Color Photo Bates-stamped SLCC001590	162	18	No. 15 Color Photo Bates-stamped SLCC001592	167	19	No. 16 Color Photo Bates-stamped SLCC001619	168	20	No. 17 Color Photo Bates-stamped SLCC001610	168	21	No. 18 Internal Affairs Unit Complaint Disposition Form Bates-stamped SLCC000635	178	22			23	No. 19 Police Department Memorandum Bates-stamped SLCC000647-648	180	24			25		
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<p>1 APPEARANCES OF COUNSEL: 2 FOR PLAINTIFFS: 3 Nicholas A. Lutz RATHOD MOHAMEDBHAI, LLC 4 2701 Lawrence Street, Suite 100 Denver, Colorado 80205 5 303.578.4400 Nl@rmlawyers.com 6 Corey D. Riley DEISS LAW PC 7 10 West 100 South, Suite 425 8 Salt Lake City, Utah 84101 801.433.0226 9 801.433.0226 10 11 FOR DEFENDANTS: 12 Katherine Nichols SALT LAKE CITY ATTORNEY'S OFFICE 13 35 East 500 South, Second Floor Salt Lake City, Utah 84111 14 385.468.7900 Katherinenichols@slcgov.com 15 16 17 18 19 20 21 22 23 24 25</p>	Page 2 <table> <tr> <td>1</td> <td>INDEX OF EXHIBITS (Cont.)</td> <td>PAGE</td> </tr> <tr> <td></td> <td>EXHIBIT</td> <td></td> </tr> <tr> <td>2</td> <td></td> <td></td> </tr> <tr> <td>3</td> <td>No. 20 Internal Affairs Case Routing and Flow Bates-stamped SLCC000652</td> <td>180</td> </tr> <tr> <td>4</td> <td>No. 21 Body Cam Footage Bates-stamped HARMON24</td> <td>183</td> </tr> <tr> <td>5</td> <td>No. 22 Body Cam Footage Bates-stamped HARMON28</td> <td>190</td> </tr> <tr> <td>6</td> <td>No. 23 Body Cam Footage Bates-stamped HARMON36</td> <td>195</td> </tr> <tr> <td>7</td> <td></td> <td></td> </tr> <tr> <td>8</td> <td></td> <td></td> </tr> <tr> <td>9</td> <td></td> <td></td> </tr> <tr> <td>10</td> <td></td> <td></td> </tr> <tr> <td>11</td> <td></td> <td></td> </tr> <tr> <td>12</td> <td></td> <td></td> </tr> <tr> <td>13</td> <td></td> <td></td> </tr> <tr> <td>14</td> <td></td> <td></td> </tr> <tr> <td>15</td> <td></td> <td></td> </tr> <tr> <td>16</td> <td></td> <td></td> </tr> <tr> <td>17</td> <td></td> <td></td> </tr> <tr> <td>18</td> <td></td> <td></td> </tr> <tr> <td>19</td> <td></td> <td></td> </tr> <tr> <td>20</td> <td></td> <td></td> </tr> <tr> <td>21</td> <td></td> <td></td> </tr> <tr> <td>22</td> <td></td> <td></td> </tr> <tr> <td>23</td> <td></td> <td></td> </tr> <tr> <td>24</td> <td></td> <td></td> </tr> <tr> <td>25</td> <td></td> <td></td> </tr> </table>	1	INDEX OF EXHIBITS (Cont.)	PAGE		EXHIBIT		2			3	No. 20 Internal Affairs Case Routing and Flow Bates-stamped SLCC000652	180	4	No. 21 Body Cam Footage Bates-stamped HARMON24	183	5	No. 22 Body Cam Footage Bates-stamped HARMON28	190	6	No. 23 Body Cam Footage Bates-stamped HARMON36	195	7			8			9			10			11			12			13			14			15			16			17			18			19			20			21			22			23			24			25		
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1 SALT LAKE CITY, FRIDAY, JUNE 17, 2022, 9:08 A.M.

2 - - -

3 CLINTON FOX,

4 called as a witness herein, having been first duly
5 sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MR. LUTZ:

8 Q. Good morning, Officer.

9 A. Good morning.

10 Q. I introduced myself off record, but I will
11 say it again. For the record, I'm Nick Lutz. I'm the
12 attorney for the Plaintiffs which are Patrick Harmon
13 II, Tasha Smith, and the Estate of Patrick Harmon.
14 I'll be taking your deposition today.

15 Have you ever been deposed before?

16 A. I've been present for one deposition, but it
17 was not mine. It was my wife's.

18 Q. Okay. What sort of case was that?

19 A. It was for like a traffic accident.

20 Q. Okay. You've testified in court?

21 A. Yes.

22 Q. Okay. So I assume you're going to be pretty
23 familiar with this process, but I'm just going to go
24 through kind of procedural background. So because we
25 have a court reporter here taking down everything we

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1 truth?

2 A. No.

3 Q. Okay. I'm sure you saw this in your wife's
4 deposition. Occasionally Ms. Nichols's, your attorney,
5 will object to the questions that I ask. As a general
6 rule, you can still answer the question and you still
7 have to answer the question. The exception is if she
8 tells you not to. And these are generally going to be
9 matters of attorney-client privilege or things like
10 that.11 So I never want to know -- she's your
12 attorney. Yeah, I never want to know what you two
13 discussed or what you discussed with your other
14 attorneys in this case. So if she objects on that
15 basis, she'll instruct you not to answer and you will
16 follow. Make sense?

17 A. Yes.

18 Q. When were you made aware that we would be
19 taking your deposition today?

20 A. Maybe a month ago. I don't remember.

21 Q. Okay. And since that time, what have you
22 done to prepare for today?

22 A. Met with my attorney.

23 Q. Okay. How many times?

24 A. I'd say twice.

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1 say, it's important for the transcript and the record
2 that we don't talk over one another, so I will wait for
3 you to finish your answer before I ask another question
4 and if you could just do the same, that would be great.
5 It's also important to give verbal answers, so gestures
6 and things that aren't words like mms don't come across
7 well on the record. So if we could avoid those, that
8 would be great.9 So right before we began, the court reporter
10 swore you in and had you take an oath; right?

11 A. (Nods head.)

12 Q. Can I get a verbal answer.

13 A. Yes.

14 Q. And you understand that that's the same oath
15 that you would take in any court of law when you're
16 testifying under --

17 A. Yes.

18 Q. -- penalty of perjury?

19 A. Yes.

20 Q. Are you suffering from any illness or other
21 condition that could make it difficult to testify
22 today?

23 A. No.

24 Q. Okay. Under the influence of any medications
25 or anything that would impair your ability to tell the

Page 8

1 Q. Okay. When?

2 A. Once earlier this week, and I don't know if
3 it was necessarily in preparation for the deposition,
4 but once a few weeks ago.

5 Q. Okay. Did you review any documents?

6 A. Like as far as paperwork and stuff?

7 Q. Anything that you might have reviewed to
8 prepare for today.

9 A. Yes.

10 Q. What did you review?

11 A. The body cam footage and I think the, I don't
12 know if it counts, the inquiries or whatever the papers
13 that you had sent over once before.

14 Q. Interrogatories?

15 A. Interrogatories. That's what it is.

16 Q. Yeah. What body cam footage?

17 A. Mine, Kris's, and Scott's.

18 Q. How many times would you say you reviewed the
19 footage?

20 A. The other day.

21 Q. Let's start there.

22 A. I think we just watched through each video
23 twice. We kind of rewound a couple of parts a couple
24 of times. I'm not sure if I could put a number on how
25 many times the little clips, but twice at least.

Page 9	Page 11
1 Q. Okay. Since the incident that we're here 2 today, how many times would you say you watched the 3 body camera footage from the incident? 4 A. I don't know that there's any way I could put 5 a number on it. I tried not to as often as possible, 6 and so it's not a lot, but it could be anywhere from 10 7 to 15. 8 Q. Okay. And have you watched -- does that 9 apply to all three? 10 A. I would say Scott specifically only a couple 11 of times. Kris's is the clearest. That's probably the 12 one where somewhere between 10 and 15, and even my own 13 is 5 or less probably. 14 Q. Okay. Are you still working for the Salt 15 Lake City Police Department? 16 A. I am. 17 Q. In what capacity? 18 A. Just patrol. I work at the airport. 19 Q. Is that the same capacity that you were 20 working in in 2017? 21 A. No. 22 Q. Were you promoted, transferred? What 23 happened there? 24 A. I've been transferred three times since. 25 Q. Okay. What made you want to have a career in	1 appropriate. 2 Q. Yeah's okay. 3 A. Okay. 4 Q. Do you mind if I ask how old you are? 5 A. I'm 40. 6 Q. Were you ever deployed during your time in 7 the Marine Corps? 8 A. Yes. 9 Q. Where? 10 A. I was deployed in supportive operations while 11 I'm in MEU in 2001. I was deployed to Kuwait in 2003 12 for the beginning of the year after the war and I was 13 deployed to Ramadi in 2000 -- sorry. After my 14 deployment to -- for the beginning of the war I was 15 deployed to the Republic of Georgia for training 16 operation and then I came back from that and I deployed 17 to Iraq in Ramadi in 2004. 18 Q. How long did those deployments last? 19 A. Anywhere from six to seven months. It 20 wouldn't be any longer than seven months. 21 Q. I'm not sure. What was your initial title in 22 the Marine Corps? 23 A. I was just in infantry. 24 Q. Were you ever promoted? 25 A. Yes.
Page 10	Page 12
1 law enforcement? 2 A. Just kind of one of those hero kid things I 3 think, right. Just growing up as a kid it was either 4 military or law enforcement. 5 Q. And did you join the military? 6 A. I did. 7 Q. Can you kind of walk me through what led you 8 to that. 9 MS. NICHOLS: Objection, vague. 10 THE WITNESS: Same thing. Just as a kid, 11 family-type thing. 12 Q. (BY MR. LUTZ) When did you enlist? 13 A. I enlisted in 2019. 14 Q. What branch? 15 A. Marine Corps. 16 Q. And how long were you -- or how long did you 17 serve? 18 A. Six years active duty and just under maybe 19 just exactly a full year as a reservist. 20 Q. Okay. What did you do before the military? 21 A. High school. 22 Q. Straight through? 23 A. Yeah. 24 Q. Okay. 25 A. Yeah. Yes. Sorry. I don't know if yeah is	1 Q. Can you walk me through any of the promotions 2 that you had in the Marine Corps as in -- 3 A. To, like, how I got promoted or to what rank? 4 Q. Ranks and at what time you achieved that 5 rank. 6 A. So in boot camp I was -- I had two 7 meritorious promotions going from PFC. I guess it goes 8 Private to PFC, PFC to Lance Corporal, so I left boot 9 camp as a Lance Corporal. I was promoted to Corporal 10 at -- I graduated in 2000. By the time I was on flow 11 in 2001 I was a corporal, so that was within a year, 12 year and a half-ish, and then I was promoted to 13 Sergeant after -- almost right after my last deployment 14 in 2004. So either earlier mid 2004 to 2005-ish. 15 Q. Is it common to be promoted in rank during 16 boot camp? 17 A. Not necessarily during boot camp, but right 18 after boot camp, yes. 19 Q. Okay. 20 A. Yeah. 21 Q. In any of these deployments did you see 22 combat? 23 A. Yes. 24 Q. And which ones? 25 A. So definitely the last one, the one that I

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1 was in Ramadi. The one where we were at the beginning,
 2 I believe that it was qualified for a combat action,
 3 but I don't know that it would meet my qualifications.
 4 I don't know what definition somebody could or would
 5 use, but I believe the company I was with got approved
 6 for a combat action ribbon, so technically it would be
 7 those two.

8 Q. Okay. I would use your definition.

9 A. Yeah. It would -- it would -- the first one
 10 was not really -- we took a couple of pot shots and a
 11 rocket hit near our base, and that was about the extent
 12 of it. That qualified, but I didn't think that it did.
 13 I did at the time and then the second go around in
 14 Ramadi I was like oh, that's what actual combat looks
 15 like. So it was different.

16 Q. What was the mission in Ramadi?

17 A. We were the force protection unit for Camp
 18 Blue Diamond which was right outside of Camp Ramadi
 19 which is right outside the City of Ramadi. So anything
 20 that had to do with any kind of base security, force
 21 security, doing convoy securities, anything like that
 22 we were in charge of that.

23 Q. What did an average day look like there?

24 A. Long. Pretty much for about the extent of
 25 the full six months we had two operations a day.

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1 Either one is going to be a foot patrol or one would be
 2 a convoy unless the convoys took more than half a day
 3 at which point we would just do the convoy and then try
 4 to get sleep and then start the rotation again the
 5 second day.

6 Q. What's involved in the foot patrol?

7 A. So pretty much the planning process is going
 8 to be a few hours, right, of planning, figuring out
 9 what is going to be the purpose of what we want to go
 10 and accomplish that day. If it's either just a show of
 11 force in a particular neighborhood, if it was
 12 reconnaissance of something that we wanted to do in the
 13 future, something like that.

14 It just depended upon kind of what the end
 15 mission was, right. Like, I mean, you don't just
 16 necessarily do it for no reason. You gotta have that
 17 reason. So if the operation line would give us
 18 whatever reason they wanted us to do, or if there were
 19 an objective, we would tailor that foot patrol to that
 20 objective.

21 Q. How often did you do reconnaissance work?

22 A. I mean, I don't know. For the six months it
 23 was -- it was, at minimum, one to two foot patrols a
 24 day, so, I mean, however many you can do in a day. I
 25 had only a couple weeks off when I ended up with

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1 stitches in the back of my leg and couldn't do anymore
 2 walking for a couple of weeks.

3 Q. What happened there?

4 A. I got tangled up in the concertina wire
 5 during a mortar attack.

6 Q. Bad injury?

7 A. It looked gruesome, but it wasn't really bad.
 8 It was all superficial. Pretty much stitches cleaned
 9 it up.

10 Q. So did they take you off duty for a little
 11 while for that?

12 A. Off duty is a hard term when you're in a
 13 place like that, so, yeah, I wasn't leaving the base
 14 and I wasn't doing patrols anymore, but I was still
 15 expected to work if that makes sense.

16 Q. Okay. Did you ever discharge your weapon?

17 A. Yes.

18 Q. How many times?

19 A. There's no way to know. I have no idea.

20 Q. Many times?

21 A. Many times.

22 Q. And I guess we're just talking about Ramadi
 23 right now?

24 A. At no point other than that did I discharge
 25 my weapon, so only in Ramadi.

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1 Q. Like --

2 A. Or other areas surrounding Iraq. Again, I
 3 can't -- you could go weeks without doing it and then
 4 you could go a couple of days with just bad things
 5 happening, so.

6 Q. Remind me what time period this was.

7 A. So in 2004. I deployed in July of 2004 and I
 8 came home sometime December to January-ish.

9 Q. Okay. At that time Ramadi was an active war
 10 zone?

11 A. It was.

12 Q. Basically?

13 A. Yeah.

14 Q. Okay. Can you tell me about your work with
 15 protecting convoys.

16 A. Like what specifically?

17 Q. Just describe to me what that entailed.

18 A. So, I mean, it depends on what unit we were
 19 doing the security for. Most -- so you got Motor T.
 20 Motor T are the truck divers and they're the ones that
 21 are going to manage their own trucks, right. Some of
 22 those trucks have guns on them. They have some of
 23 their own people that are armed and have, like, ready
 24 response teams.

25 As the infantry unit, our sole responsibility

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1 is to -- if we make contact, we would either try to
 2 protect or, you know, engage to take, you know, the
 3 brunt of that so that we could get them off the exit
 4 and we could actually get them back on their way and
 5 out of the way, and then we could either (a) deal with
 6 a response of like trying to go after the people that
 7 were attacking our convoys or just continue to move on
 8 with the convoy.

9 But we would -- anything that took us away
 10 from the convoy, it would be to go and either counter
 11 an assault that was against us or to go and try to stop
 12 something that was happening to the convoy itself.

13 Q. In your work protecting convoys, were you
 14 ever fired upon?

15 A. Yes.

16 Q. How many times?

17 A. I don't know.

18 Q. Too many to count?

19 A. Yeah. I mean, I couldn't put a number on it.

20 Q. And forgive me if I'm taking you back to a
 21 time you don't remember fondly, but was it like a
 22 monthly occurrence?

23 A. Yeah, like the same thing. I mean, we could
 24 go days or weeks and it's -- and it turns boring and
 25 it's mundane, and then just, you know, all the sudden

Page 17

1 was your next professional move?
 2 A. So I immediately started -- or tried selling
 3 cars for a dealership there in my hometown.

4 Q. Where was that?

5 A. In Tooele.

6 Q. Which is here in Utah --

7 A. Yeah.

8 Q. -- I've learned.

9 A. Yes.

10 Q. How far away is it from here?

11 A. 37, 38 miles.

12 Q. Okay. How long did that last?

13 A. Only a handful of months.

14 Q. And what was next?

15 A. After that I got hired, I was basically
 16 building and repairing, upgrading cellphone towers, so.

17 Q. What company?

18 A. Called Western Telecom.

19 Q. How long did that last?

20 A. Year and a half I think. I think.

21 Q. So at this point, your post military career,
 22 were you still trying to figure out what you wanted to
 23 do next?

24 A. No. I knew I wanted to become a cop, but
 25 being a police officer is very organized, uniform,

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1 they had a happy weekend and they wanted to do crazy
 2 stuff for a few days or something, you know. It just
 3 didn't matter. There was no rhyme or reason to it.
 4 You get, you know, you could go a while without seeing
 5 anything and then you could all the sudden it'd be like
 6 oh, wow, this has been a crappy two days, you know. So
 7 it just depends.

8 Q. Okay. Did you receive any accommodations
 9 during your time in the military?

10 A. Just like a good conduct medal, combat
 11 ribbon, stuff like that, but nothing beyond the -- kind
 12 of the basics.

13 Q. Any other awards? Anything like that?

14 A. No.

15 Q. So you left the military what year?

16 A. 2005 I think.

17 Q. Why did you decide to move on?

18 A. I wanted to get married. I had a girlfriend
 19 and the rate of deployments was too much.

20 Q. Sure. Were you with your girlfriend the
 21 whole time for all of your deployments?

22 A. Three of them.

23 Q. That's a lot.

24 A. It was.

25 Q. So after you came out of the military, what

Page 19

1 was your next professional move?
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 3 cars for a dealership there in my hometown.

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14 Q. And what was next?

15 A. After that I got hired, I was basically
 16 building and repairing, upgrading cellphone towers, so.

17 Q. What company?

18 A. Called Western Telecom.

19 Q. How long did that last?

20 A. Year and a half I think. I think.

21 Q. So at this point, your post military career,
 22 were you still trying to figure out what you wanted to
 23 do next?

24 A. No. I knew I wanted to become a cop, but
 25 being a police officer is very organized, uniform,

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1 haircut, you know, have to shave, have to -- or we used
 2 to have to shave, and I wanted a break from kind of
 3 that real rigid type lifestyle, so I just -- I think it
 4 was maybe a total of two years maybe-ish.

5 Q. Okay. This beard policy changed between the
 6 incident and today, didn't it?

7 A. Yes.

8 Q. Officer Smith also has a significant beard
 9 now.

10 A. His is very phenomenal, mine is not, I would
 11 argue, yeah.

12 Q. So what other jobs were you doing during this
 13 period?

14 A. That's it.

15 Q. And when did you first apply for a law
 16 enforcement position?

17 A. I think it was 2008 and my first job I
 18 applied for within law enforcement was to be a
 19 dispatcher.

20 Q. For what agency?

21 A. The Tooele County Sheriff's Office.

22 Q. Okay. And were you hired into that job?

23 A. Yes, I was.

24 Q. How long did you work in that capacity?

25 A. Roughly, 11 months.

<p style="text-align: right;">Page 21</p> <p>1 Q. And what does dispatch involve?</p> <p>2 A. Sitting, staring at computer screens, typing 3 much like she's doing, and basically handling all the 4 communication from any of the officers, fire EMTs, or 5 anybody that uses the dispatch service, being the radio 6 communications back and forth.</p> <p>7 Q. Okay. Are you taking -- you're not taking 8 911 calls?</p> <p>9 A. Yes, I was.</p> <p>10 Q. Okay. And then directing those out to the?</p> <p>11 A. Yeah, I mean, you would rotate through the 12 different posts throughout the shift, right. So it was 13 12-hour shifts for Tooele County, so I would either be 14 doing fire EMS calls or like, you know, anybody can 15 take the 911 calls, especially if we're getting busy or 16 we're just taking regular nonemergency phonecalls 17 dispatching for fire, dispatching for police, 18 dispatching for the different agencies or whatever.</p> <p>19 We usually had I think it was like crews of 20 four and then it just depended on the position what you 21 were doing at that time.</p> <p>22 Q. Did you enjoy that work?</p> <p>23 A. Not really.</p> <p>24 Q. Was it sort of a foot in the door --</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 23</p> <p>1 A. Yeah. So there's, you know, a handful of 2 different postings. You do work within the jail, 3 right, so you either intake, processing, housing. If 4 you're working with the, kind of the day workers that 5 would do like the laundry or the cooking or whatever, 6 you know, it just depended on what you would do.</p> <p>7 So, I mean, if you're in intake, anybody that 8 gets arrested you're coming, you're searching and 9 entering them into the system, and you could be doing 10 both the intake and assisting with processing or vice 11 versa. So once you process -- or once you intake them 12 in, they get put into a holding cell and then you gotta 13 actually book them, right.</p> <p>14 So you go through the whole process of 15 booking them into the jail, allowing them to have the 16 phonecall with their attorneys. And then if they 17 either (a) don't bail out or it's not something they're 18 going to get OR'd for, then we would house them, and 19 then that's where the housing officer and the inmates 20 working with the trustees will kind of take over at 21 that point.</p> <p>22 If you're the housing guy, then you're just 23 basically waiting for them to get housed. You gotta 24 bring them in, you put them in their cells, you make 25 sure they're in all the logs, start kind of doing all</p>
<p style="text-align: right;">Page 22</p> <p>1 Q. -- kind of thing?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. How long -- I think I've seen your job 4 history. How long before you moved into your next 5 position?</p> <p>6 A. I was a dispatcher for about 11 months.</p> <p>7 Q. And what was your next position?</p> <p>8 A. I was a corrections officer for the same 9 agency.</p> <p>10 Q. Were you working out of the same facility 11 there?</p> <p>12 A. It's the same building, just a different 13 office type thing.</p> <p>14 Q. Okay. What led you to apply for that 15 particular position in corrections?</p> <p>16 A. Just one step closer being on patrol.</p> <p>17 Q. Patrol was always the goal?</p> <p>18 A. Yes. Yes.</p> <p>19 Q. How long did you stay in your position as a 20 corrections officer?</p> <p>21 A. Almost exactly two years.</p> <p>22 Q. Was that a better experience than dispatch?</p> <p>23 A. Yeah, much so.</p> <p>24 Q. Can you tell me what an average day was like 25 as a corrections officer.</p>	<p style="text-align: right;">Page 24</p> <p>1 that stuff.</p> <p>2 Q. You said OR'd?</p> <p>3 A. Own cognizance, so yeah.</p> <p>4 Q. So cognizance, bond released?</p> <p>5 A. Yeah, pretty much. Where they don't have to 6 pay any money or whatever it is. They're just OR.</p> <p>7 Q. And you said trustee. What does that mean?</p> <p>8 A. So, you know, the jail works with a lot of 9 the inmates that can have jobs within the facility and 10 they have the ability to kind of work off some of their 11 time, so I don't know why they call it a trustee, but 12 the trustees are just people that have proven that they 13 have the capability of working and we can pull them out 14 of their cells, trust them to go and do the laundry, do 15 that kind of stuff and they can work off their time and 16 it kind of benefits them, benefits us.</p> <p>17 Q. Okay. At some point during your work as a 18 corrections officer there in the jail, did you meet 19 Scott Robinson?</p> <p>20 A. No.</p> <p>21 Q. Or Kris Smith?</p> <p>22 A. No.</p> <p>23 Q. We'll come back to that.</p> <p>24 A. Okay.</p> <p>25 Q. So I take it that I think you said it was --</p>

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1 that position was better than dispatch, but still not
 2 the goal, so --

3 A. Right.

4 Q. -- were you ever going to stay there
 5 longterm?

6 A. I mean, if I had to, I probably would have,
 7 but no. The goal was to definitely get to patrol.

8 Q. Okay. Did you ever need to use force on the
 9 inmates there?

10 A. I think only a couple of times, but yeah.

11 Q. How many times would you say?

12 A. I have no idea.

13 Q. Less than five?

14 A. Probably more than five.

15 Q. Less than ten?

16 A. Maybe. I don't know. I mean, honestly, I
 17 don't know. It's two years' worth and I -- I don't
 18 know. I mean, it could be anywhere from -- I would say
 19 probably no more than 10 to 15-ish if you want to guess
 20 a number, yeah.

21 Q. While you were there, was there a reporting
 22 requirement for a use of force instance kind of the
 23 same way there is when you're a patrol officer?

24 A. I mean, yes and no there was some. It
 25 depends on what the qualification is for use of force.

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1 If we had people that was during intake, they were
 2 becoming aggressive and we ended up having to, you
 3 know, either pin them against the wall or use the wrist
 4 lock, twist lock, stuff like that, we didn't
 5 necessarily have to write a report for that, no.

6 I think, you know, I was there when one
 7 inmate got tased. I think that the initial officer
 8 wrote a report for that, but, like, I wouldn't write a
 9 report for that.

10 Q. Okay. In terms of I guess weapons, what were
 11 you -- what would you carry in the jail?

12 A. Nothing.

13 Q. At all?

14 A. I had OC, but no knives, no guns, no nothing.

15 Q. Handcuffs?

16 A. I think I had handcuffs, yeah.

17 Q. What else would be on your duty belt?

18 A. Radio.

19 Q. Okay.

20 A. That's pretty much it.

21 Q. Were there weapons available in the facility?

22 A. Like an armory rack or something?

23 Q. Sure.

24 A. No.

25 Q. You mentioned somebody was tasered once.

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1 Were some officers carrying tasers?

2 A. So the sergeant might have had the taser. I
 3 don't think I had a taser. I don't remember where the
 4 taser would be held, honestly. I don't remember. I
 5 know that we had access to a taser, so, yeah, I
 6 think -- that was either with a sergeant, but I don't
 7 think we had them. Maybe it was staged in the housing
 8 unit. I don't remember. Sorry.

9 Q. Did you ever have to use the taser while you
 10 were working there?

11 A. Not while I was in corrections, no.

12 Q. Did you ever have inmates file grievances
 13 against you?

14 A. I think so, yes.

15 Q. Do you know how many?

16 A. No.

17 Q. Do you remember the circumstances of any of
 18 them?

19 A. I remember -- the one that I remember the
 20 most was a female that filed a grievance because she
 21 was violating some of the jail policies and so I
 22 basically put her in what they call lockdown which if
 23 they're in a unit that's open and they have their
 24 jail -- the cell open, right, and they have the freedom
 25 to come in and out, use the day room, use everything

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1 else, if they get that freedom taken away, it's called
 2 lockdown where they just basically have to go into
 3 their cell and they have to shut the door and they
 4 don't get the opportunity to kind of use the day room
 5 as everybody else does. She didn't agree with it.

6 Q. Was that 23-hours a day lockdown?

7 A. No. So it would have been, I mean, it could
 8 have been halfway through the day and then at the end
 9 of the night, I mean, it basically would rotate it over
 10 the next morning and add, you know, like 0700 or 0800.
 11 Whenever they opened the cells and had everybody come
 12 out, she would then have had the opportunity to come
 13 out.

14 Q. Okay. Do you remember her name?

15 A. I think it was Nicole, but I don't remember
 16 for sure.

17 Q. At any time were you the subject of
 18 disciplinary action while you worked at the jail?

19 A. No.

20 Q. Any other grievances that you can tell me
 21 about?

22 A. No. I mean, I'm sure that there were some.
 23 You know, when you work housing, a lot of the guys get
 24 mad at you and they file grievances as often as they
 25 can. So I know there are probably some, but I don't

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1 remember any specific. The only reason I remember that
 2 one specific is she really hated me after that.

3 Q. Was she housed there for some time?

4 A. Yes, she was. She was a frequent flier at
 5 the jail, yeah.

6 Q. When did you apply for your next law
 7 enforcement position?

8 A. Like I said, it was almost exactly two years
 9 in the jail.

10 Q. And what was the next position?

11 A. Just patrol with the same agency.

12 Q. The sheriff's department?

13 A. Yeah.

14 Q. When you were working as a corrections
 15 officer, were you technically a sheriff's deputy?

16 A. I mean, I guess, yeah. I mean, we were
 17 working underneath the authority from the sheriffs at
 18 the sheriff's office, so if corrections officers are
 19 qualified as deputies, whatever the definition of a
 20 deputy would be, I guess yeah.

21 We just called ourselves corrections
 22 officers. There's corrections officers and then
 23 there's patrol deputies, so.

24 Q. Were you POST certified at that time?

25 A. Corrections certified which, through POST, is

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1 would kind of partner up and hang out together, but we
 2 were always in our own cars. We never really worked
 3 two-man.

4 Q. Can you tell me about the first major call
 5 you responded to in that position?

6 A. Major as in like what?

7 Q. What stands out to you as your first
 8 significant experience?

9 A. It was either the first or the second day
 10 there was a lady that shot herself in the chest and
 11 then survived, crawled into her front room and was
 12 having foamy flood come out of her mouth in front of
 13 her kids which was pretty traumatizing for probably me
 14 and the kids.

15 Q. What was the nature of the call you received?

16 A. The husband was actually home. She drove
 17 into wherever she bought the gun from. It was a Bursa
 18 .380, she bought the gun brand new, box of bullets. I
 19 believe it was just lead, but it was jacketed lead, and
 20 drove home, parked in front of her house, loaded five
 21 or six rounds, I can't quite remember a hundred percent
 22 if that's accurate, but it was a couple -- it was more
 23 than the one that she needed.

24 And she ended up pointing the gun at her
 25 chest, shot herself, missed her heart, punctured her

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1 the same qualifying kind of agency or authority and
 2 they're the ones that give the ability for the state,
 3 right. So in the State of Utah you either have to have
 4 the POST certification or you'd be a cat 1 or cat 2.
 5 So cat 1 is LEO, cat 2 I think is corrections
 6 certified. And then there's a step though below that
 7 which can be bailiffs or other things.

8 Q. Do you know what that stands for, SFO?

9 A. Special functions officer.

10 Q. So what year was it when you were hired as a
 11 patrol deputy?

12 A. 2009, but I am not certain.

13 Q. Okay. I think we have that somewhere in the
 14 documents.

15 A. I think it was 2009.

16 Q. Okay. And what were your duties in that
 17 position?

18 A. Just regular patrol duties.

19 Q. As in out on the streets, patrol car?

20 A. Yeah. Yes.

21 Q. Did you have your own car?

22 A. Yes.

23 Q. And did you work with a partner?

24 A. Nobody did. Like partnered in a vehicle all
 25 the time? No. We had four-man crews and, I mean, we

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1 lungs, exited, and she immediately decided that she did
 2 not want to hurt herself anymore, crawled inside,
 3 husband called, and we responded.

4 Q. Did she survive?

5 A. She survived that time, but I actually think
 6 that she did successfully end her life later. I never
 7 got confirmation if that was her or not, but I was told
 8 like that -- the other gentleman that was on the call
 9 with me who was my FTO at the time, we both were to the
 10 understanding that it was her that ended up actually
 11 successfully taking her life later.

12 Q. Sorry to hear that. So that was day one or
 13 two?

14 A. Yeah. If it wasn't the very first day, it
 15 was the second day I think.

16 Q. That did not turn you off from the job?

17 A. No.

18 Q. Can you walk me through an average day as a
 19 patrol officer? Or patrol deputy, rather.

20 A. So Tooele County does 12-hour shifts. If I
 21 check on -- technically they're from 5:00 to 5:00, but
 22 it was a well received courtesy to check on about 30
 23 minutes early so that way, right, if anybody kind of is
 24 going off and they have paperwork that they've got to
 25 get in, that they don't have to stay over if a call

<p>1 comes up.</p> <p>2 So we don't have to quite go out, but we do</p> <p>3 go get coffee in the morning, right. Typically at</p> <p>4 4:30, 5:00 o'clock in the morning, not a lot of</p> <p>5 traffic, nobody's calling reporting things broken or</p> <p>6 anything yet. So we can go get coffee, go by the</p> <p>7 office, you get whatever you need to start the day, and</p> <p>8 then make sure your gas is -- or your truck is all</p> <p>9 gassed up.</p> <p>10 From there, you know, probably around</p> <p>11 8:00-ish, 9:00-ish things start picking up either doing</p> <p>12 traffic enforcement. If you want to do -- it's kind of</p> <p>13 whatever you wanted to do. You could go do traffic,</p> <p>14 you could go, you know, hang out in school zones if</p> <p>15 kids are walking to school. Calls start coming in</p> <p>16 about that time, so you start trying to keep up on</p> <p>17 that.</p> <p>18 And then, I mean, you just gotta -- the cycle</p> <p>19 repeats. You know, if you get dispatched to a call,</p> <p>20 you take it. If not, you go try to find either civil</p> <p>21 papers to serve with the sheriff's office, they do a</p> <p>22 lot of civil paper service. Yeah, it was 7200 square</p> <p>23 miles is the size of Tooele County, so if you felt so</p> <p>24 inclined and the sergeant would allow it, then you</p> <p>25 could have one guy go out to the west desert and do</p>	<p>Page 33</p> <p>1 taser?</p> <p>2 A. At the sheriff's office?</p> <p>3 Q. Uh-huh.</p> <p>4 A. I think once.</p> <p>5 Q. Do you remember that incident?</p> <p>6 A. Yes.</p> <p>7 Q. Can you tell me what happened?</p> <p>8 A. I was on -- so there was a overlap of being</p> <p>9 patrol, but where I was also assigned to the motor</p> <p>10 squad, so I would still just do basic patrol functions,</p> <p>11 just from a motorcycle. I had seen a vehicle, it was</p> <p>12 double parked. The passenger was acting very</p> <p>13 suspicious on the porch of the house they were double</p> <p>14 parked on, and the way that she came running off it</p> <p>15 seemed as if I had spooked her off the porch. So I</p> <p>16 didn't know what was going on, stopped the car for the</p> <p>17 offense of the double park.</p> <p>18 As soon as I walked up to the diver's window</p> <p>19 I could smell the odor of marijuana, so I ended up</p> <p>20 getting the owner's information which is actually the</p> <p>21 female in the passenger seat, got her out, started</p> <p>22 talking to her, asked her about the odor. She said she</p> <p>23 didn't have any idea what I was talking about and I</p> <p>24 told her all right, cool, I'm just going to, you know,</p> <p>25 put you in handcuffs real quick and I'm going to have</p>
<p>Page 34</p> <p>1 some patrolling out there if you wanted.</p> <p>2 Q. Okay. Tooele County, how would you say the</p> <p>3 crime rate is there?</p> <p>4 A. After having worked in Salt Lake,</p> <p>5 significantly lower than where I work now.</p> <p>6 Q. A little bit sleepier?</p> <p>7 A. A lot sleepier, yeah.</p> <p>8 Q. What sort of -- what sort of calls would you</p> <p>9 ordinarily be responding to?</p> <p>10 A. Any type of police related call. I mean, we</p> <p>11 did a lot of medicals because we'd roll with medical</p> <p>12 because we were kind of out there. We would</p> <p>13 potentially be closer than an ambulance, so we could</p> <p>14 respond and assist domestics. Traffic accidents were</p> <p>15 pretty heavy. DUIs, fights, disturbances. Really</p> <p>16 anything that you could think of.</p> <p>17 Q. Were you carrying a service weapon?</p> <p>18 A. Yes.</p> <p>19 Q. What else were you carrying when you were on</p> <p>20 duty?</p> <p>21 A. I carried a taser, carried OC, and I think at</p> <p>22 the sheriff's office I carried my ASP with me.</p> <p>23 Q. Which is like a baton?</p> <p>24 A. It's an expandable baton, yes.</p> <p>25 Q. How many times did you have to use your</p>	<p>Page 36</p> <p>1 you kind of hang out until I can get like a partner</p> <p>2 here, you know.</p> <p>3 And kind of the moment I said that, I went to</p> <p>4 actually put handcuffs on her, she started to fight.</p> <p>5 She tried punching me, clawing me. She actually tried</p> <p>6 to bite me at one point. I finally almost got her kind</p> <p>7 of like in a point where she was almost in custody and</p> <p>8 then her boyfriend came out. And they had a really big</p> <p>9 dog. It was a massive American Bulldog I think.</p> <p>10 And he came out of the car, dog was trying to</p> <p>11 get out of the car, so as I kind of engaged with him,</p> <p>12 she was able to get up, take off running. I took off</p> <p>13 running behind her, he took off running behind me, and</p> <p>14 then just now there was a two on one, she'd already</p> <p>15 physically assaulted me and everything, so I ended of</p> <p>16 tasering her and then he ended up -- seeing her get</p> <p>17 tased, he ended up giving up, and I was able to take</p> <p>18 them both into custody.</p> <p>19 Q. When was this?</p> <p>20 A. 2010. 2011 maybe. I'm not sure. It was</p> <p>21 right around there.</p> <p>22 Q. Tooele being a little sleepier, was a</p> <p>23 situation like that where you had to use physical force</p> <p>24 uncommon?</p> <p>25 A. Yeah, not nearly as common as when I worked</p>

<p style="text-align: right;">Page 37</p> <p>1 for Salt Lake where we deal with that on a pretty 2 regular basis. It was somewhat uncommon for Tooele, 3 yeah.</p> <p>4 Q. Were there other times when you had to use 5 force on suspects?</p> <p>6 A. Yes.</p> <p>7 Q. How often did that happen?</p> <p>8 A. Not often at all at Tooele County.</p> <p>9 Q. Could you give me a ballpark of how many 10 times you had to use force against -- use physical 11 force against a suspect?</p> <p>12 A. Ten, twenty. Yeah, I can't, I mean, there's 13 no way I could remember how many. No less than 10, no 14 more than 20. Double that. Or 25, 30 maybe. Just 15 depending. I don't know. Sorry.</p> <p>16 Q. Did the Tooele County Sheriff's Department 17 have a use of force reporting requirement?</p> <p>18 A. Yes.</p> <p>19 Q. So in each of these you would have filled out 20 a report?</p> <p>21 A. Oh, yes, for sure.</p> <p>22 Q. Any disciplinary action ever taken against 23 you for an inappropriate use of force with the 24 sheriff's department there?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 39</p> <p>1 A. Yeah. 2 Q. When did you -- what was that position? 3 A. Patrol. 4 Q. When did you apply for it? 5 A. So I got hired there 2013. I don't remember 6 exactly when in 2013, but it was early. Yeah, 2013. 7 Q. What inspired you to make that change? 8 A. Tooele County was going broke and they 9 actually said they were going to restructure our pay 10 scale and take money away, so knowing that I wanted to 11 be in law enforcement for a long time, I wasn't willing 12 to take a pay cut, so I went to a new agency, better 13 money.</p> <p>14 Q. Is West Valley a more populous area? 15 A. By far, yes.</p> <p>16 Q. A little more excitement?</p> <p>17 A. Yeah.</p> <p>18 Q. How long were you there? 19 A. Almost exactly three years. Apparently I'm 20 really good at making it like right to the, like right 21 on point.</p> <p>22 Q. Three to five years if you look?</p> <p>23 A. Yeah.</p> <p>24 Q. Okay. So your title was? 25 A. Patrol Officer.</p>
<p style="text-align: right;">Page 38</p> <p>1 Q. What about complaints? Were you ever subject 2 to citizen complaints for excessive use of force? 3 A. No. 4 Q. Would you always have been informed if a 5 citizen filed a grievance or a complaint against you? 6 MS. NICHOLDS: Objection, calls for speculation. 7 THE WITNESS: I don't know. 8 Q. (BY MR. LUTZ) Just wondering if there was a 9 policy? 10 A. I don't know if there was a policy or not. 11 Q. Okay. But to your knowledge, no citizen 12 complaints? 13 A. Yeah, to my knowledge. 14 Q. And was it from -- directly from the Tooele 15 County Sheriff's Department to Salt Lake City Police 16 Department? 17 A. No. 18 Q. What was your next step? 19 A. West Valley City. 20 Q. Where is that? 21 A. Just south of here. 22 Q. Is that basically a suburb of Salt Lake City? 23 A. Basically, yeah, I think you'd understand it 24 that way. 25 Q. Okay.</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Same as in Tooele. Well, I guess you were a 2 deputy in Tooele. 3 A. I mean, same job description, just different 4 titles I think. 5 Q. Did your duties change very much when you 6 moved to West Valley? 7 A. How so? 8 Q. I'm just asking you if it was basically the 9 same patrol kind of job? 10 A. I mean, yeah, we weren't taking cows getting 11 hit on the highway anymore, but other than that, the 12 day to day like response to emergency type situations, 13 anything like domestics and all that, yeah, same thing. 14 Q. Okay. In your day to day in West Valley were 15 you responding to more serious calls? 16 A. Yes. 17 Q. Can you kind of walk me through what the 18 variety of calls you responded to? 19 A. I mean, it would have been the same thing. 20 Either domestics or fights. Significantly more, like, 21 shots fired type calls. A lot more gang activity, so 22 that kind of -- anything that would be gang related. 23 We'd have to deal with a lot more, a lot more 24 robberies. First time I ever handled a bank robbery, 25 first time I was ever actually, I think, at a homicide</p>

<p style="text-align: right;">Page 41</p> <p>1 scene would have been at West Valley. 2 Yeah, car jackings, all the, like, that all 3 significantly increased. But, I mean, it's all pretty 4 much like either, you know, crime or violent crime, 5 kind of the same. Just who's doing it, how they're 6 doing it is different, you know. 7 Q. Did you enjoy the different environment? 8 MS. NICHOLS: Objection, vague. 9 MR. LUTZ: That's vague. 10 Q. (BY MR. LUTZ) Were you more satisfied in a 11 higher intensity environment? 12 MS. NICHOLS: Objection, vague. 13 You can answer. 14 THE WITNESS: I mean, not really. It was -- I 15 actually genuinely missed working for the sheriff's 16 office. If they paid me better, I would probably still 17 be there. Yeah, not -- I guess the answer would be no 18 probably. Not anymore than what I was when I was at 19 the sheriff's office, so it was equal. 20 Q. (BY MR. LUTZ) Just to put a finer point on 21 that, would you say that in West Valley, given it's 22 more populous and the crime rate was higher, it was a 23 higher intensity job than in Tooele? 24 A. Yeah, I would -- yes. 25 Q. Was that stressful?</p>	<p style="text-align: right;">Page 43</p> <p>1 where things were calm or quiet and then you would have 2 a couple days that things weren't, but it was 3 significantly more than Tooele. 4 Q. And were you ever subject to disciplinary 5 action for a use of force incident there? 6 A. No. 7 Q. Ever subjected to a disciplinary action for 8 any other policy infraction? 9 A. No. 10 Q. Any citizen complaints against you? 11 A. Not that I know of, but I -- I think somebody 12 called a complaint about my driving on the way to work 13 one day, but I don't even know for sure they did. I 14 don't remember. I feel like that's a conversation I 15 had with the sergeant at one point, but I don't 16 remember for sure. 17 Q. Possibly a driving complaint? 18 A. Maybe. But I don't know. 19 Q. Nothing sustained? 20 A. No. 21 Q. Did you ever have to use your taser when you 22 were on duty in West Valley? 23 A. Yes. 24 Q. How many times? 25 A. At least three, maybe four or five.</p>
<p style="text-align: right;">Page 42</p> <p>1 A. I never noticed it if it was, but I would 2 imagine yeah. I mean, I'd probably say yeah. 3 Q. That didn't bother you though? 4 A. No. 5 Q. In terms of your career, like as far as I can 6 see so far, Tooele was almost like a break in the 7 intensity from really high, you know, military, jail, 8 Tooele, West Valley, and then Salt Lake and somewhere 9 in there. 10 A. Sure. 11 Q. It's just interesting to me that you would 12 also enjoy Tooele. 13 A. Yeah. I love Tooele, yeah. 14 Q. Do you still have family there? 15 A. Yes. 16 Q. Go back frequently? 17 A. I still live there. 18 Q. Oh, okay. 19 A. Yeah. 20 Q. Let's talk about use of force incidents in 21 West Valley. How often were you involved in the use of 22 force during your service in West Valley? 23 A. There it was a significant uptake. I would 24 say, minimum, every couple of weeks, every other week 25 or so I guess. I mean, you could have a couple of days</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. Do you remember the first time? 2 A. Ooh, the first time? I don't remember the 3 first time. I don't remember. 4 Q. Tell me about the first incident where you 5 deployed your taser that you can remember in West 6 Valley. 7 A. So the one that definitely stands out in my 8 mind we were responding to a young man, they lived in a 9 trailer park. There was a double wide trailer, we came 10 in through the side entrance. Mom -- I think it was 11 mom and grandma or his aunt and grandma or his mom and 12 aunt, either way there was two ladies, they were like 13 yeah, he's in his bedroom. You know, I think he had 14 warrants. And I don't remember exactly what he was 15 doing, but he was basically like they were afraid of 16 him at the time. 17 So me and my partner go to his door, he was 18 there. I don't remember if he had a T-shirt on, but I 19 think he was in boxers and he might have not had a 20 T-shirt on, but I don't remember. Kind of a smaller 21 bedroom, had a bed, some shelves, real cluttered area, 22 and then he had a chair. He was sitting in the chair 23 and at the time was kind of not compliant with our 24 instructions. He stood up real quick, he grabbed 25 something off the shelf.</p>

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1 It was -- I don't remember what it was. I
 2 think it might have been a flashlight, but he tucked it
 3 behind his back and he was trying to get us to perceive
 4 it as a weapon. At the time I didn't know exactly what
 5 it was and so I ended up -- my partner ended up going
 6 with his gun and I ended up going with my taser. I
 7 said whatever that is, drop it. He responded to
 8 something probably not friendly, and then I immediately
 9 tased him. Immediate incapacitation. He fell down.

10 And I remember now that it was a flashlight
 11 for sure, but at the time I didn't know what he had
 12 grabbed off the shelf, so it was just a black shiny
 13 object that he tucked behind his back real quick, so.

14 Q. Okay. You weren't worried that it was like a
 15 gun or another weapon?

16 A. I thought for sure it was a weapon. It did
 17 not look like it was a gun. It was long and
 18 cylindrical, so at worst it could have been a knife,
 19 but it was just a black shiny object that he grabbed
 20 real quick. He didn't present it at us as if it was
 21 going to hurt us. He actually attempted to hide it
 22 behind his back and then refused to drop whatever it
 23 was. So I definitely perceived it as a weapon, but I
 24 just didn't know what kind of weapon it was.

25 Q. And you already had your taser drawn by the

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1 Q. Okay. Any other incidents that you remember
 2 deploying your taser in West Valley?

3 A. West Valley. I know I did, but I don't
 4 remember. Sorry.

5 Q. Okay. Did you ever have to use your service
 6 weapon in West Valley?

7 A. No.

8 Q. Did you ever have to draw it?

9 A. Yes.

10 Q. How many times did that happen?

11 A. A lot.

12 Q. Under what circumstance did you ordinarily
 13 need to do that?

14 A. Any time, I mean, conducting a felony stop,
 15 any time you're clearing a building, any time you're
 16 making contact with somebody who you think there's a
 17 weapon, the weapon comes out.

18 Q. On all felony stops, you're going to draw?

19 A. You're going to draw and cover the car. I
 20 mean, yeah.

21 Q. And you did those on a daily basis?

22 A. I mean, very regularly.

23 Q. Okay. I think we covered it, but to your
 24 knowledge, you didn't have any citizen complaints
 25 against you in West Valley?

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1 time you saw that?

2 A. No. It was after he did that I think I went
 3 taser and my partner went gun.

4 Q. Is there a reason your partner drew his
 5 service weapon versus his taser?

6 A. I think he --

7 MS. NICHOLS: Just a second. Objection, calls for
 8 speculation.

9 THE WITNESS: Sure. Sorry. I don't know why he
 10 did, but we both actually drew our guns first, and then
 11 I communicated to him that I was going to go to a
 12 taser.

13 Q. (BY MR. LUTZ) Why did you make that decision?

14 A. He was hiding it behind his back and he
 15 wasn't presenting it. And so whatever he was trying to
 16 do, he was trying to potentially get us to shoot him,
 17 and without the active aggression at us, I communicated
 18 to him. He knew what he was going to do, and he knew
 19 what I was going to do, and so that way I felt
 20 confident enough I could put my taser away. Regardless
 21 what he had or what he was doing, in that moment I knew
 22 he was going to cover.

23 Q. Okay. And you said that was effective, he
 24 was incapacitated?

25 A. Yeah.

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1 A. Not that I know of.

2 Q. Okay. And what was your next move or when
 3 did you decide to move on from West Valley?

4 A. So I know that I was -- this one I remember
 5 more accurately is March I believe 16th of 2016 is when
 6 I started from West Valley to Salt Lake.

7 Q. And what motivated your move?

8 A. Money. There was a friend of mine. We
 9 worked together, actually, at the sheriff's office in
 10 Tooele. Again, with the financial struggles that they
 11 were having, a lot of people left. Me and another guy
 12 went to West Valley together, this other guy went to
 13 Salt Lake. He kept talking it up, it's the greatest
 14 agency, this and that. I looked into it, it actually
 15 made like \$6 an hour more. So literally chasing the
 16 same bad guys and just crossing the street made me \$6
 17 an hour more, so it made sense.

18 Q. Okay. Made sense. Other than the money, was
 19 there a reason that you wanted to be on patrol in Salt
 20 Lake City?

21 A. No. That was pretty much it.

22 Q. Okay.

23 A. I would say probably staffing. I think Salt
 24 Lake City was staffed better and so it was kind of
 25 easier to get time off, it was, you know, less call to

<p style="text-align: right;">Page 49</p> <p>1 call, maybe a little bit more opportunity for proactive 2 work. But I was satisfied with West Valley well enough 3 that I would have stayed. Had they paid \$6 an hour 4 more, probably so.</p> <p>5 Q. Do you recall about how many patrol officers 6 West Valley employed?</p> <p>7 A. Of the department I think 60 to 70, but I 8 don't know.</p> <p>9 Q. And same thing for Salt Lake, when you 10 started for SLCPD.</p> <p>11 A. Oh, it's probably anywhere from as low as 80 12 up to 120 and it fluctuates pretty dramatically 13 depending.</p> <p>14 Q. Taking a step back, I asked you about Scott 15 Robinson earlier.</p> <p>16 A. Okay.</p> <p>17 Q. Mistakenly thinking that you had been with 18 him at the jail. When did you meet him?</p> <p>19 A. Not until I started working at Salt Lake.</p> <p>20 Q. Okay. What about Kris Smith?</p> <p>21 A. So I am not a hundred percent sure, but I 22 believe that there was somebody that I think it was 23 Kris that I was at court. I might have been working 24 for West Valley. I was at court, and I think he worked 25 at the courthouse, and me and him had a conversation.</p>	<p style="text-align: right;">Page 51</p> <p>1 Q. And your first position was what? 2 A. Patrol. 3 Q. And how long did you stay in the patrol 4 division?</p> <p>5 A. Maybe it was a year and a half-ish. I think. 6 Q. Okay. I'm going to hand you Exhibit 8. 7 (Exhibit 8 marked.) 8 Q. (BY MR. LUTZ) Do you recognize this document? 9 A. No. I've never seen any of these before. 10 Q. Okay. This was disclosed to us as part of 11 your personnel file, I presume, which is it's your 12 Training History Report -- 13 A. Gotcha. 14 Q. -- from Utah. 15 Do you see up at the top of page 1 of Exhibit 16 8? It kind of -- it tracks your employment history. 17 Can you just take a look at that and the dates. 18 A. Which part? 19 Q. Right here under the Employment heading 20 (indicating). 21 A. Right. 22 Q. And then below that organization dates; 23 right? 24 A. Right. 25 Q. Is this all accurate, these dates and the</p>
<p style="text-align: right;">Page 50</p> <p>1 He actually said he was going to apply for Salt Lake 2 City and then I applied for Salt Lake City, but I think 3 he had already gone there. 4 So I cannot say a hundred percent certain, 5 but I'm pretty certain that me and Kris met in court 6 one time in a hallway. Other than that, it was Salt 7 Lake City. If it wasn't him, it was definitely at Salt 8 Lake City, but if it was him that I'm thinking, we met 9 at the courthouse.</p> <p>10 Q. So you didn't really know either -- 11 A. No. 12 Q. -- Scott or Kris -- 13 A. No. 14 Q. -- until Salt Lake? 15 A. Yeah. 16 Q. Okay. 17 Do you want to take five minutes? 18 MS. NICHOLS: That would be great. Thanks. 19 (Recess taken from 10:01 a.m. to 10:12 a.m.) 20 Q. (BY MR. LUTZ) We're back on the record. I 21 think where we left off we were kind of tracking your 22 career up to Salt Lake City which I believe you said 23 was in 2016 that you joined Salt Lake City Police 24 Department? 25 A. Yeah.</p>	<p style="text-align: right;">Page 52</p> <p>1 organizations that you were with? 2 A. (Peruses document.) 3 Yeah, so, I mean, I'm assuming that the 4 sheriff's office, that actually looks probably more 5 accurate than even what I described early, yes, because 6 that seems right. 7 The West Valley time I think, I mean, 8 obviously it's probably more accurate. It definitely 9 seems that it would make sense from -- the time of 10 staging, I don't know if that's what the city is 11 considering my time in their lateral academy that they 12 have, but that is also . . . 13 (Peruses document.) 14 Yeah, I mean, I'm guessing that's probably 15 accurate. 16 Q. Okay. What's the lateral academy? 17 A. So it's just a training period that they try 18 to acclimate us to Salt Lake City policies, procedures, 19 their computer equipment, their kind of evidence 20 processing, stuff like that. 21 Q. How long is it? 22 A. I'm assuming whatever that -- if that says . 23 . . . 24 (Peruses document.) 25 I don't even think that that is -- I think it</p>

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1 was six weeks. And that's the part I don't know what
 2 they're considering staging, but I think that the
 3 actual lateral academy was only six weeks.

4 Q. Okay. During that time that you're in the
 5 lateral academy, are you also working on patrol?

6 A. No.

7 Q. You're in the academy and that's what you're
 8 doing for that period of time?

9 A. Just training.

10 Q. Okay. I saw you flip through it a little
 11 bit, but can we -- can you just take a general look at
 12 the subsequent pages of the history and training
 13 report. And what you'll see here is there's a course
 14 title, there's training dates, there's the Status
 15 Training category and number of hours.

16 Does this, as you flip through it, look like
 17 an accurate reflection of the trainings that you've
 18 completed with the Salt Lake City Police Department?

19 MS. NICHOLS: Objection as to the term trainings,
 20 but -- to the extent it's vague and ambiguous.

21 THE WITNESS: (Peruses documents.)

22 Sorry. Can you just repeat whatever the
 23 actual question was.

24 MR. LUTZ: Yeah. Can you read it back (to the
 25 reporter).

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1 (The record was read as follows:

2 "Q. Does this, as you flip through
 3 it, look like an accurate reflection of the
 4 trainings that you've completed with the
 5 Salt Lake City Police Department?")

6 THE WITNESS: I would say that these are probably
 7 accurate, but not a full and total account of all of
 8 the trainings that I've participated in.

9 Q. (BY MR. LUTZ) Based on how we're using the
 10 term training?

11 A. Probably.

12 Q. Okay. What would you call these? Courses?

13 A. Some yes, some no.

14 Q. Okay. So, for example, like where we see
 15 it'll read SLCPP Cornerstone, what is that?

16 A. (Peruses documents.)

17 Q. Just go ahead and look at page 4 of Exhibit 8
 18 and just look at the very top right-hand corner.
 19 You'll see the course or training "ADT Annual Recert,
 20 July 1, 2019, completed," and then this category title
 21 is SLCPP Cornerstone.

22 A. I think Cornerstone is just the software that
 23 we use to track them.

24 Q. Oh, I see. That's not like an online
 25 training system?

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1 A. Some of it -- I want to say all of our
 2 training is -- I thought it was the database that they
 3 were all stored in, but I don't know.

4 Q. Okay.

5 A. But I know they do have some videos and stuff
 6 like that, the training opportunities to do that, yeah.

7 Q. So you said you had never seen this before;
 8 right? This whole document of your training.

9 A. No.

10 Q. Was there a way for you to access your own
 11 training records when you were at SLCPPD?

12 A. Yes.

13 Q. How would you do that?

14 A. On Cornerstone.

15 Q. Okay. Did you ever do that?

16 A. No.

17 Q. You were never required to check what was
 18 completed or not completed, things of that nature?

19 A. There's like an in-box and I would check
 20 that.

21 Q. Okay. Would you just be alerted to when
 22 additional courses --

23 A. Yes.

24 Q. -- were required?

25 A. Yeah.

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1 Q. Okay. Did you track the hours? Anything of
 2 that nature?

3 A. No.

4 Q. Can you flip to page 3.

5 A. (Witness complies.)

6 Q. And you'll see down here at the very bottom,
 7 the bottom two rows, bottom four rows rather, "SWAT
 8 training, SWAT sniper training, monthly SWAT training,
 9 SWAT sniper training." Do you see that?

10 A. Yes.

11 Q. Do you remember those trainings?

12 A. Specifically?

13 Q. Any of the SWAT training that you did.

14 A. Like specifically those SWAT trainings or any
 15 SWAT trainings I've completed?

16 Q. Any of the SWAT trainings that you did in
 17 Salt Lake City.

18 A. Yeah, I remember a lot of them.

19 Q. Were those voluntary?

20 A. Yes.

21 Q. Why did you volunteer to do SWAT training?

22 A. So, I mean, in order to be a member of the
 23 SWAT team you have to complete your training hours, so
 24 it is voluntary to be on the team, but, I mean, it's
 25 mandatory to go to trainings.

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1 Q. So when did you volunteer for the SWAT team?
 2 A. So I got hired on March of, yeah, March 2016,
 3 so it would have been March 2017, one year later.
 4 Q. Okay. What motivated you to join the SWAT
 5 team?
 6 A. I'd been on two other teams prior to that and
 7 I wanted to continue that.
 8 Q. Is it just something you enjoy?
 9 A. Oh, yes.
 10 Q. What do you enjoy about it?
 11 A. The guys, the training. Better gear, better
 12 training.
 13 Q. Were you ever deployed as a SWAT officer in
 14 an actual incident?
 15 A. Yes.
 16 Q. How many times?
 17 A. A lot. I have no idea.
 18 Q. Could you give me a ballpark?
 19 A. No. There's no way I would give an accurate
 20 number of times I've been deployed as SWAT.
 21 Q. Is the SWAT team deployed often, in general?
 22 A. It's just like everything else. I mean, it
 23 kind of comes and goes in waves.
 24 Q. What's the purpose of the SWAT team?
 25 A. To --

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1 MS. NICHOLS: Just a second. Objection.
 2 THE WITNESS: Sorry.
 3 MS. NICHOLS: Vague and calls for speculation.
 4 THE WITNESS: The purpose of the SWAT team?
 5 MR. LUTZ: Yeah.
 6 THE WITNESS: To respond to anything that would
 7 potentially be outside of the capability of a patrol
 8 officer. Also, within Salt Lake City, to serve any
 9 search warrants that are served by the city.
 10 Q. (BY MR. LUTZ) So give me some examples. Give
 11 me an example of the scenario of what you just
 12 described there. First, not serving a search warrant,
 13 but something that would be outside the capabilities of
 14 the ordinary patrol officers.
 15 A. A man barricaded in a building with a gun.
 16 Q. Were you ever -- did you ever participate in
 17 a SWAT call like that?
 18 A. Yes.
 19 Q. Multiple times?
 20 A. Yes.
 21 Q. How many?
 22 A. Again, there's no way for me to know.
 23 There's just no way.
 24 Q. Is it hundreds?
 25 A. Hundreds of SWAT deployments potentially, but

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1 not hundreds of men with guns inside buildings.
 2 Q. Okay.
 3 A. So.
 4 Q. Do you recall your -- actually, let's go
 5 back. Now, in your capacity as airport patrol, are you
 6 still serving on the SWAT team?
 7 A. Yes, I am.
 8 Q. When was the last time that you were deployed
 9 on the SWAT team?
 10 A. If I can look at my phone, I might be able to
 11 tell you.
 12 Q. Sure.
 13 A. (Peruses cellphone.)
 14 June 4th, potentially. I can't think of
 15 anything that was more recent than that last op.
 16 Q. And what happened on June 4th?
 17 A. So June 4th we served two search warrants.
 18 One was for narcotics, I think the other one was for
 19 guns, but I don't remember a hundred percent. I would
 20 have to read my report.
 21 Q. Can you walk me through your memory of that
 22 narcotics call?
 23 MS. NICHOLS: Objection, vague and calls for a
 24 narrative.
 25 THE WITNESS: So you want me to walk you through

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1 like the totality of the beginning to end for the SWAT
 2 operation?
 3 Q. (BY MR. LUTZ) Yeah. Just tell me what you
 4 did in the SWAT operation.
 5 MS. NICHOLS: Same objections.
 6 THE WITNESS: Yeah, so, I mean, we attended a
 7 briefing, obviously went to the location. My
 8 particular assignment I believe on the one, at least
 9 the one that I'm thinking of, that one definitely had
 10 our adviser from the narcotics unit, so I'm pretty sure
 11 it was an arrest warrant.
 12 So, anyways, I was a part of the clear team
 13 and so we ended up getting to the location, clearing
 14 the location, I think we took a few suspects into
 15 custody, and then we immediately turned it over to the
 16 detectives.
 17 Q. (BY MR. LUTZ) Okay. So you also have this
 18 training record that, this part of your SWAT training,
 19 you do SWAT sniper training?
 20 A. I did. I don't anymore.
 21 Q. Okay. Why not?
 22 A. Just didn't want to anymore.
 23 Q. Were you ever actually deployed as a sniper
 24 position on a SWAT team?
 25 A. Yes.

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1	Q. How many times?	1 Q. Okay. Is it accurate that that was in
2	A. Dozens.	2 October 2017?
3	Q. Did you ever have to -- in general in your	3 A. No. I felt like it was before that. I felt
4	time being deployed with SWAT, did you ever have to use	4 like it was -- I think it was in June.
5	a firearm?	5 Q. Okay. If you go back to Exhibit 8 --
6	A. Define used.	6 A. This one (indicating)?
7	Q. Fire.	7 Q. Yeah.
8	A. No.	8 A. Yeah.
9	Q. You can put this aside. We might come back	9 Q. The date that we have here on page 1.
10	to it.	10 A. I didn't notice that before, but I don't --
11	A. (Complies.)	11 Q. You don't think this is accurate?
12	Q. In general in your time as a Salt Lake City	12 A. I don't think that's accurate.
13	police officer, how many times have you discharged your	13 Q. It's not October 2017?
14	firearm?	14 A. I don't think so.
15	MS. NICHOLS: Do you mean outside of training?	15 Q. You think it was June 2017?
16	MR. LUTZ: While on duty outside of training.	16 A. I think so.
17	THE WITNESS: I'm glad you said that because that	17 Q. Do you remember when the incident with
18	could have been hundreds. Outside of training?	18 Mr. Harmon occurred?
19	MR. LUTZ: Yes.	19 A. August.
20	THE WITNESS: I think it's only been two.	20 Q. Was your transfer -- were you working with
21	Q. (BY MR. LUTZ) Do you remember those two	21 the airport police?
22	incidents?	22 A. Sorry. Hold on a second. I didn't
23	A. Yes.	23 realize -- yeah, this is -- this is -- that's
24	Q. And which were they?	24 significantly wrong. I've only been out to the airport
25	A. One there was a deer that needed to be	25 since last June.
	Page 62	Page 64
1	dispatched and one was in the incident that we're here	1 Q. Last June?
2	for.	2 A. Yeah. That's not accurate even remotely.
3	Q. With Mr. Harmon?	3 Q. Okay. So June 2021 you went out to the
4	A. Yes.	4 airport?
5	Q. Those were the only two times you've ever	5 A. I think so. It was definitely just last
6	discharged your service weapon as a police officer on	6 year. I've only been out there -- to qualify, I've got
7	duty with Salt Lake City?	7 a badge that gets me in through the doors and I think
8	A. Yeah, I think so. I don't think there's been	8 it says like June something as my expiration date, and
9	anything else.	9 so I think it was June when I got it, so I think it was
10	Q. And never in your capacity on the SWAT team?	10 June when I went out there. Does that make sense?
11	A. No.	11 Q. Uh-huh.
12	Q. What precipitated your transfer to airport	12 A. Other than that, I think I've been there
13	police?	13 since June of last year, so yeah.
14	MS. NICHOLS: Objection, vague.	14 Q. Okay. And the reason I ask is because these
15	Q. (BY MR. LUTZ) Was it your decision?	15 dates on your training history report which you believe
16	A. Yes. Sorry.	16 are inaccurate, you know, this would only be a period
17	Q. Did you put in for a transfer for that?	17 of weeks after the incident with Mr. Harmon, and so
18	A. Yes.	18 what I was wondering was did that precipitate the
19	Q. Can you tell me why.	19 change?
20	A. I wanted to.	20 A. No.
21	Q. Why did you want to?	21 Q. It sounds like no.
22	A. Change of scenery. Yeah, sorry. I don't	22 A. No.
23	understand.	23 Q. Okay. You can put that aside.
24	Q. I'm just wondering what motivated the change?	24 A. (Complies.)
25	A. Yeah, just that.	25 Q. Can we talk a little bit about your

<p>1 disciplinary history at SLCPD?</p> <p>2 A. Sure.</p> <p>3 Q. So what I've seen from your file, just a 4 couple things. Can you tell me what discipline you've 5 been subject to in your time with the Salt Lake City 6 Police Department?</p> <p>7 A. I think the only thing -- the only thing that 8 I've actually, and I don't think I was, I mean, I guess 9 it would depend on your qualification of what 10 discipline means. I was found at an at-fault accident, 11 so I was, I mean, basically at fault for that, but 12 other than that, I haven't been disciplined outside of 13 that.</p> <p>14 Q. Were you issued any kind of reprimand for the 15 at-fault accident?</p> <p>16 A. Like nothing in writing or anything, but, 17 yeah, basically told not to do it again. It was an 18 at-fault accident, so it just goes on my record as 19 such, and then it kind of affects like your safe 20 driving record within the department I think. Too many 21 of those could be negative.</p> <p>22 Q. Okay. So were those -- were you accused of a 23 policy violation in that incident?</p> <p>24 A. No. No.</p> <p>25 Q. And there's two driving incidents, right, on</p>	<p>Page 65</p> <p>1 Q. (BY MR. LUTZ) Okay. So I've just handed you 2 what's been marked as Exhibit 9. Can you tell me 3 what's on the front page of Exhibit 9?</p> <p>4 A. I believe that that is the front right fender 5 of my patrol car.</p> <p>6 Q. Okay. And can you describe its condition?</p> <p>7 A. Damaged.</p> <p>8 Q. Does this picture reflect what we were just 9 talking about?</p> <p>10 A. I believe so, yes.</p> <p>11 Q. Okay. Flip to the next page which is 12 SLCC577.</p> <p>13 A. (Complies.)</p> <p>14 Q. Have you seen this before?</p> <p>15 A. No. Maybe.</p> <p>16 Q. It's addressed to you.</p> <p>17 A. (Peruses document.)</p> <p>18 Yeah, I think I got this in an email. I 19 don't know if I've received a copy of it before.</p> <p>20 Q. So this is from Brian Purvis, Captain of 21 Internal Affairs; right?</p> <p>22 A. Yes.</p> <p>23 Q. And you see at the bottom it says cc: IA File 24 and it says you were involved in a preventable accident 25 which is a violation of SLCPD policy?</p>
<p>1 your record?</p> <p>2 MS. NICHOLS: Objection to the extent that you 3 have his record and he could review it to answer.</p> <p>4 But you can answer to your best recollection.</p> <p>5 THE WITNESS: Yeah, so I've only had one at-fault 6 accident. I believe there's been multiple incidents in 7 my vehicle, yes.</p> <p>8 Q. (BY MR. LUTZ) And there was another one in 9 West Valley?</p> <p>10 A. Might have been one, but that was not an 11 accident.</p> <p>12 Q. Oh, right. That was the citizen complaint, 13 possibly?</p> <p>14 A. That I'm not even a hundred percent sure that 15 even -- yeah.</p> <p>16 Q. Yeah. But you're not -- that's your entire 17 disciplinary history in Salt Lake City is these driving 18 infractions?</p> <p>19 MS. NICHOLS: By disciplinary history, do you mean 20 where he was issued discipline?</p> <p>21 MR. LUTZ: Yeah.</p> <p>22 THE WITNESS: Yeah, I think in those terms the 23 only thing I've ever had is that one at-fault accident.</p> <p>24 MR. LUTZ: Okay.</p> <p>25 (Exhibit 9 marked.)</p>	<p>Page 66</p> <p>1 A. Okay.</p> <p>2 Q. So you were accused of a policy violation 3 because of this incident?</p> <p>4 A. Correct.</p> <p>5 Q. If you go to these little numbers on the 6 bottom, SLCC580.</p> <p>7 A. (Complies.)</p> <p>8 Q. And you see under the Bureau Commander 9 Comments here it says "Accident reviewed by the 10 Accident Review Board and determined to be preventable 11 by a unanimous vote. This is the subject officer's 12 first preventable accident. He was directed by his 13 division to complete an online driving course. This 14 case is now closed."</p> <p>15 A. Yes.</p> <p>16 Q. So this policy violation, you were determined 17 to have violated a policy here?</p> <p>18 A. Yes.</p> <p>19 Q. And the penalty, if you want to call it that, 20 was an online driving course?</p> <p>21 A. I actually had forgotten about that, but yes.</p> <p>22 Q. Okay. If you flip to 582.</p> <p>23 A. (Complies.)</p> <p>24 Q. Do you recognize this image?</p> <p>25 A. (Peruses document.)</p>

	Page 69	Page 71
1	No.	
2	Q. How about 583?	1 A. Which one? Sorry. Where are you seeing?
3	A. (Peruses document.)	2 Q. So if you look down at the bottom of 592 --
4	Oh, yes.	3 A. Right.
5	Q. What's this? What do we see in 583?	4 Q. -- we have -- it says "Incident Type."
6	A. 583 is a Dodge Durango.	5 A. Right.
7	Q. And does this spark your memory --	6 Q. Below that "Vehicle Accident."
8	A. Yes.	7 A. Right.
9	Q. -- about another incident?	8 Q. "Received 3, Total 3."
10	A. Yes.	9 A. Okay.
11	Q. Or the same incident as before?	10 Q. We've talked about two.
12	A. No. This is a different incident.	11 A. Right.
13	Q. Okay. What happened in this incident?	12 Q. What's the third one?
14	A. This guy made a U-turn and hit my car.	13 A. I got rear ended.
15	Q. Okay. Go ahead and flip to 587.	14 Q. Okay. When was that?
16	A. (Complies.)	15 A. I'm assuming if this -- if these are correct,
17	Sure.	16 then the initial one is potentially the January 14th of
18	Q. What does 587 show?	17 2017. This one in November 25 of 2017 I'm assuming --
19	A. That's damage to the rear left fender of my	18 oh, I'm sorry, no. You know what. The one in January
20	patrol car.	19 of 2017 is the one where I think is the one we're not
21	Q. Okay. Same thing on 588? Or it's not the	20 talking about. The one in November of 2017 may be the
22	same thing, but what does 588 show?	21 one that -- I think that was the one, the first one we
23	A. Same damage from a different angle.	22 talked about, and I think the last one is the one with
24	Q. Okay. So do you remember this incident where	23 the Durango.
25	the guy made a U-turn and hit your car?	24 Q. Okay.
		25 A. I think. Sorry.
	Page 70	Page 72
1	A. Yes.	1 Q. And the one that we're missing is one where
2	Q. And did you have to attend a predetermination	2 you were rear ended?
3	hearing about this incident as well?	3 A. Yeah, well, technically the Durango, as it
4	A. No.	4 turned, kind of rear ended me as well, but then the
5	Q. And the incident with the Durango, was that	5 other one the guy actually rear ended me and then
6	before or after the first incident that we talked	6 actually pushed my car into the car in front of me.
7	about?	7 Q. Okay. Was that the incident with Officer
8	A. After.	8 Silva?
9	Q. Can you flip to 592.	9 A. That was the first one. The first pictures
10	A. 592?	10 that you showed me?
11	Q. Uh-huh.	11 Q. Yeah.
12	A. (Peruses document.)	12 A. That was that one.
13	Q. Okay. So we have here it's Concise Officer	13 Q. Okay. You can put that aside.
14	History, Officer Clinton Fox, and then three sort of	14 A. (Complies.)
15	descriptions. "Involved officer vehicle accident	15 Q. So other than what we just talked about with
16	January 14th, 2017." Was one of the incidents that we	16 these driving incidents and the one sustained as a
17	just talked about this January 2017 incident?	17 policy violation, you're not aware of any other policy
18	A. I think the first one we talked about might	18 violations that were sustained against you at your time
19	have been the January 17th one.	19 with the SLCPD?
20	Q. Okay. January 14th?	20 A. None that I'm aware of.
21	A. 14th, sorry. I'm not a hundred percent sure.	21 Q. Okay. Can we talk about your relationship
22	Q. Okay. So down here at the very bottom we	22 with Officer Robinson, Scott Robinson?
23	have "Incident Type, Vehicle Accident 3, Total 3."	23 A. Sure.
24	What is the third incident we haven't talked about that	24 Q. I think you mentioned it before, but when did
25	this refers to?	25 you first meet Scott Robinson?

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1 A. So I'm assuming you don't intend, like, the
 2 very first time I ever met him passing in the hall,
 3 that kind of incident like meeting him in like a work
 4 capacity on a regular basis. Or what do you mean?
 5 Q. Yeah. When's the first time you met him?
 6 A. I mean, I have no idea when the first time I
 7 met him was.
 8 Q. When was the first time you worked with him?
 9 A. So when I moved to the squad at the beginning
 10 of that rotation, that was the first time -- I think
 11 that's the first time we were ever actually working
 12 like the same squad together. We were actually, I
 13 believe, beat partners. We were released in the same
 14 zone if not the same beat, and so that would be the
 15 first time we ever worked together.
 16 Q. How many officers are in a zone?
 17 A. It depends.
 18 Q. How many officers were in the zone that you
 19 two were in?
 20 A. Four of us I think.
 21 Q. Who were the other two?
 22 A. So there was me, Scott, Kris, and Josie.
 23 Q. Okay. Kris is Kris --
 24 A. Smith.
 25 Q. -- Smith? Okay.

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1 A. Yeah, so once we were on the squad together,
 2 it was every night.
 3 Q. And that was for how long?
 4 A. Probably two to three months of that
 5 rotation.
 6 Q. And then you were on different squads?
 7 A. Yes.
 8 Q. Did you ever work with him on a daily basis
 9 again?
 10 A. No. I don't think I did.
 11 Q. Did you see him on a daily basis?
 12 A. No, not really. Like in passing maybe.
 13 Maybe in the building or something, but no.
 14 Q. Did you speak with him regularly?
 15 A. Yeah.
 16 Q. Were you friends?
 17 A. Yes.
 18 Q. Are you friends today?
 19 A. Yeah.
 20 Q. Did you talk to him yesterday?
 21 A. I did not.
 22 Q. Have you ever been to his house?
 23 A. Yes.
 24 Q. How many times?
 25 A. Two or three times.

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1 How long did the three of you, as in Scott
 2 Robinson and Kris Smith, all work in that zone
 3 together?
 4 A. For that rotation.
 5 Q. How long is rotation?
 6 A. Four months I think.
 7 Q. And did you work with Officer Robinson again
 8 outside of that rotation?
 9 A. I don't know when he got to bikes, but we
 10 were never on the same squad again that I can remember
 11 anyways.
 12 Q. Okay. What do you mean when you say when he
 13 got to bikes?
 14 A. So I ended up on the bike squads and I was
 15 there for a while. I think he was still in patrol.
 16 While it's -- the bikes are technically a subdivision
 17 of patrol, we just had yellow shirts, bikes, and he
 18 eventually made it to bikes, but I don't know if we
 19 were ever on the same squad together.
 20 Q. Okay. How closely did you work with Officer
 21 Robinson?
 22 MS. NICHOLS: Objection, vague.
 23 THE WITNESS: The first time?
 24 Q. (BY MR. LUTZ) I mean, over the course of your
 25 time, did you guys work together frequently?

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1 Q. Any of the places that he's lived.
 2 A. Five, six.
 3 Q. Is he married?
 4 A. Yes.
 5 Q. You met his wife?
 6 A. Yes.
 7 Q. Does he have kids?
 8 A. Yes.
 9 Q. Have you met his kids?
 10 A. Yes.
 11 Q. What are their names?
 12 A. Oh. If I say I don't remember, are you guys
 13 going to tell him?
 14 Q. I will give him this transcript if he asks
 15 for it.
 16 A. Oh. I'm going to hate it because I don't
 17 remember.
 18 Q. Do you know how old they are?
 19 A. One of them starts with a C I believe. Oh,
 20 I'm going to hate this. How old are they?
 21 Q. (Nods head.)
 22 A. One is close to 10, maybe slightly older. I
 23 think the other one is close to 14-ish plus or minus a
 24 couple years.
 25 Q. Boy and girl?

<p style="text-align: right;">Page 77</p> <p>1 A. Two girls.</p> <p>2 Q. Two girls. What's his wife's name?</p> <p>3 A. I don't know.</p> <p>4 Q. Have they ever had you over for dinner?</p> <p>5 A. We had a barbecue once. I was invited to a 6 barbecue.</p> <p>7 Q. Okay. Have you ever hosted Officer Robinson 8 at your home?</p> <p>9 A. Yes.</p> <p>10 Q. How many times?</p> <p>11 A. Two or three.</p> <p>12 Q. Ever been to a bar with him?</p> <p>13 A. Yeah. Yeah.</p> <p>14 Q. Still plan on socializing in the future?</p> <p>15 A. Well, he's a sergeant now, so he may not want 16 to associate with a lowly patrol guy, but I would like 17 to with him, yes.</p> <p>18 Q. That's a pretty recent change; right?</p> <p>19 A. Yes.</p> <p>20 Q. His promotion to sergeant?</p> <p>21 A. Yeah.</p> <p>22 Q. Have you socialized with him since his 23 promotion?</p> <p>24 A. No.</p> <p>25 Q. Seems like you had to think about it. Are</p>	<p style="text-align: right;">Page 79</p> <p>1 MS. NICHOLS: And just a second. I'm going to 2 object. To the extent that there's any discussion of 3 privileged information, I direct you not to answer as 4 to any discussions that either of you had with me.</p> <p>5 MR. LUTZ: It wouldn't be privileged between the 6 two.</p> <p>7 MS. NICHOLS: It's joint counsel representation.</p> <p>8 MR. LUTZ: It doesn't matter if you're not 9 involved in the communication. Are you on these text 10 messages?</p> <p>11 MS. NICHOLS: If they're forwarding -- if they're 12 forwarding and relaying information that I provided, 13 it's privileged.</p> <p>14 MR. LUTZ: I don't think that's right if you're 15 not on the communication, but we can get to it when we 16 address the particular communication.</p> <p>17 THE WITNESS: So I don't know what he is referring 18 to, but he said, "Probably working on my yard. You?" 19 I don't know.</p> <p>20 Q. (BY MR. LUTZ) Do you guys ever text about the 21 case?</p> <p>22 A. No.</p> <p>23 Q. Can I see?</p> <p>24 A. I mean, no.</p> <p>25 Q. I mean, well, you can say no now, but we'll</p>
<p style="text-align: right;">Page 78</p> <p>1 you guys texting?</p> <p>2 A. I -- so, genuinely, the last time I saw him 3 was actually on a call, and he was off in the distance, 4 and I literally had to shout at him and say hi, so I 5 haven't talked to him in a while.</p> <p>6 Q. But do you text message with him?</p> <p>7 A. Not recently in a long time.</p> <p>8 Q. What's a long time?</p> <p>9 A. Long enough I don't remember the last time I 10 texted with him.</p> <p>11 Q. Want to check?</p> <p>12 A. I can check. (Peruses cellphone.)</p> <p>13 I think I just figured out what his wife's 14 name is.</p> <p>15 Q. What is it?</p> <p>16 A. I believe it's Amber. Am I correct? Do you 17 know?</p> <p>18 Q. I don't know.</p> <p>19 A. Dammit. I'm still going to wonder about 20 that. So this has May 30th I think is the last time 21 that we've texted. I have nothing after that, so I 22 would assume that's accurate.</p> <p>23 Q. What did you text him?</p> <p>24 A. It says --</p>	<p style="text-align: right;">Page 80</p> <p>1 put in a discovery request and it will be discoverable.</p> <p>2 A. Yeah, that's fine.</p> <p>3 Q. Okay.</p> <p>4 A. Okay.</p> <p>5 Q. Don't delete it.</p> <p>6 A. Delete what?</p> <p>7 Q. Any of your communications.</p> <p>8 A. Okay.</p> <p>9 Q. What about Officer Smith? You guys friends?</p> <p>10 A. Yes.</p> <p>11 Q. Kris Smith?</p> <p>12 A. Yes.</p> <p>13 Q. They both described you as friends, and 14 colleagues, obviously. So have you socialized with 15 Kris Smith out of work?</p> <p>16 A. Yes, outside of work.</p> <p>17 Q. Has he ever been to your house?</p> <p>18 A. Yes.</p> <p>19 Q. How many times?</p> <p>20 A. At least once. I don't -- at least once. I 21 don't know how many times.</p> <p>22 Q. Have you ever been to his?</p> <p>23 A. I don't think I have.</p> <p>24 Q. Ever been to a bar together?</p> <p>25 A. Kris doesn't drink. We've been to a</p>

<p style="text-align: right;">Page 81</p> <p>1 restaurant together. I had a beer, he didn't.</p> <p>2 Q. How many times have you guys been out to eat</p> <p>3 together?</p> <p>4 A. Outside of work?</p> <p>5 Q. Let's start with outside of work.</p> <p>6 A. Maybe -- maybe two. Yeah.</p> <p>7 Q. How about at work?</p> <p>8 A. Well, at work we probably go to dinner quite</p> <p>9 a bit. We were on the same squad. We probably ate</p> <p>10 every night that we could, yeah.</p> <p>11 Q. And Kris has been there about the same time</p> <p>12 that you have, right, at Salt Lake City Police</p> <p>13 Department?</p> <p>14 MS. NICHOLS: Objection, calls for speculation.</p> <p>15 THE WITNESS: Yeah, I think he's been there longer</p> <p>16 than I have.</p> <p>17 Q. (BY MR. LUTZ) Yeah, I thought you said</p> <p>18 earlier that you had some inclination -- inkling that</p> <p>19 he had applied right before you. Is that right or am I</p> <p>20 misstating that?</p> <p>21 A. I think you're misstating it. I think we had</p> <p>22 a conversation that we both intended to apply. When</p> <p>23 that actually happened, I have no idea what the, like,</p> <p>24 sequence of events that would have had happened.</p> <p>25 Q. Do you remember if you started before him?</p>	<p style="text-align: right;">Page 83</p> <p>1 way I'm going to remember his kids' names.</p> <p>2 Q. How many kids does he have?</p> <p>3 A. Is it four? I don't know.</p> <p>4 Q. What are their -- do you have any idea what</p> <p>5 their approximate ages are?</p> <p>6 A. I know that there's one, again, roughly,</p> <p>7 around 10-ish, plus or minus a few years, and then</p> <p>8 another one closer again about 14. I think that</p> <p>9 there's one below, middle, and above that, but I</p> <p>10 don't -- I can't remember. Around there I think.</p> <p>11 That's a lot of guessing on my part.</p> <p>12 Q. Is he married?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know his wife's name?</p> <p>15 A. Yes. I believe her name's Laura. I hope I</p> <p>16 don't get that wrong too.</p> <p>17 Q. And you're married?</p> <p>18 A. Yes.</p> <p>19 Q. What's your wife's name?</p> <p>20 A. I know my wife's name. I can be a hundred</p> <p>21 percent about her name being Brittany. I think.</p> <p>22 Sorry, just kidding.</p> <p>23 Q. Have you and Brittany ever been out with Kris</p> <p>24 and his wife as couples?</p> <p>25 A. Yeah. I mean, yeah. Yes.</p>
<p style="text-align: right;">Page 82</p> <p>1 A. He started before me.</p> <p>2 Q. Okay. So the three of you are friends?</p> <p>3 A. Yeah.</p> <p>4 Q. Do you have any idea if Kris and Scott are</p> <p>5 friends with each other?</p> <p>6 MS. NICHOLS: Objection, calls for speculation.</p> <p>7 THE WITNESS: I think so.</p> <p>8 Q. (BY MR. LUTZ) Do the three of you all hang</p> <p>9 out together?</p> <p>10 A. Again, I think the interactions between,</p> <p>11 like, either work and off work; right?</p> <p>12 Q. As to both.</p> <p>13 A. Yeah, I mean, on duty obviously we were on</p> <p>14 the same squad, we'd hang out all the time. Off duty I</p> <p>15 think we've all been -- we've all, like, had dinner</p> <p>16 together or hung out at least a couple of times. I</p> <p>17 don't know about, I mean, probably at least once if not</p> <p>18 two times where it's all three of us or one at a time</p> <p>19 otherwise, if that makes sense.</p> <p>20 Q. Okay. Have you met Kris Smith's family?</p> <p>21 A. Yes.</p> <p>22 Q. Does he have children?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know their names?</p> <p>25 A. No, because he has more kids and there's no</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. How many times?</p> <p>2 A. Once, twice.</p> <p>3 Q. Have your kids ever met?</p> <p>4 A. Yes.</p> <p>5 Q. Are your kids friends with one another, any</p> <p>6 of them?</p> <p>7 A. I mean, they were friendly to each other at</p> <p>8 the time, but they don't -- I mean, I doubt that even</p> <p>9 they may remember meeting them. So not friends, but</p> <p>10 they were friendly.</p> <p>11 Q. Okay. They have met though?</p> <p>12 A. Yeah.</p> <p>13 Q. So that's sort of outside of work. Did you</p> <p>14 have a close relationship with Officer Robinson as a</p> <p>15 colleague?</p> <p>16 MS. NICHOLS: Objection, vague.</p> <p>17 THE WITNESS: So, like, what do you mean?</p> <p>18 Q. (BY MR. LUTZ) You worked together frequently,</p> <p>19 you care about him?</p> <p>20 A. Yeah.</p> <p>21 Q. You care about his professional career?</p> <p>22 A. Yeah.</p> <p>23 Q. Do you think he cares about yours?</p> <p>24 MS. NICHOLS: Objection, calls for speculation.</p> <p>25 THE WITNESS: I would hope so.</p>

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1	MR. LUTZ: He says he does.		1 Q. Okay. Just that one time?
2	THE WITNESS: (Nods head.)		2 A. I mean, there was more than that, but it was
3	Q. (BY MR. LUTZ) When I asked Officer Robinson		3 also less likely that -- I mean, yeah, I mean, there's
4	yesterday about August 13, 2017, and when you two took		4 just no way to know sometimes. You know what I mean?
5	a call to go help Kris Smith, I asked why you two		5 Q. Yeah, well, because it sounds like you were
6	jumped on that call together and he said it's just what		6 involved in a lot of gunfights. Is that what you're
7	we do or what we did. Does that sound right to you?		7 saying?
8	A. Yeah. Sorry.		8 A. Yeah, more than a couple.
9	MS. NICHOLS: You're good. Go ahead.		9 Q. Do you have any idea how many?
10	Q. (BY MR. LUTZ) I mean, to me that describes a		10 A. No.
11	close personal working relationship. Is that accurate?		11 Q. You have significant combat experience?
12	A. Yeah.		12 MS. NICHOLS: Objection, vague.
13	Q. I think it sounds like he believes he had		13 THE WITNESS: Yeah, comparatively, no.
14	your back and you had his back. Is that accurate?		14 Comparatively it was very light. I have friends that
15	A. Yes.		15 actually had lots of combat experience. I had very
16	Q. Same thing with Kris?		16 minor combat experience. So it's hard to say. You
17	A. Yes.		17 know what I mean?
18	Q. We talked a little bit about your military		18 Q. (BY MR. LUTZ) I do. When was the incident
19	combat experience at the very beginning of the day.		19 that we just talked about?
20	Can we go back, and I just want to ask you some		20 A. I have no idea. What do you mean when?
21	additional details. I do honestly apologize if it's		21 Q. At least, during which deployment?
22	sensitive. I don't mean to cause unnecessary stress.		22 A. It was the one to Ramadi.
23	But you were involved in combat you said		23 Q. Okay. Sometime within that deployment?
24	numerous times and you discharged your weapon several		24 A. Yeah.
25	times?		25 Q. And I understand that these things can blend
	Page 86		Page 88
1	A. (Nods head.)		1 together and it was also a long time ago. Was Ramadi
2	Q. Were you -- did you ever shoot other		2 your last deployment?
3	combatants?		3 A. Yes.
4	A. Yes.		4 Q. Did that incident have anything to do with
5	Q. Can you tell me how many times?		5 your decision not to go back?
6	A. One time that I know for sure. Other than		6 A. No.
7	that, it would just be speculating whether I actually		7 Q. Okay. We can talk about something less
8	hit what I was aiming at.		8 intense if you want --
9	Q. You had one confirmed kill?		9 A. I'd appreciate it.
10	A. It doesn't -- in terms of saying like a		10 Q. -- which is tasers.
11	confirmed kill, that doesn't quite qualify --		11 This is already marked as Exhibit 1 I
12	Q. Okay.		12 believe. Let's just mark the whole manual as an
13	A. -- as you would potentially understand. You		13 exhibit.
14	know what I'm saying?		14 (Exhibit 10 marked.)
15	Q. You'll have to -- you'll have to correct me		15 MR. LUTZ: Okay. Don't worry. We're not going to
16	on military terminology.		16 look through this whole thing.
17	A. Yeah.		17 THE WITNESS: I got it.
18	Q. I don't know --		18 Q. (BY MR. LUTZ) Okay. Have you ever seen
19	A. So, no, there would be absolutely no record		19 Exhibit 10 before?
20	of me actually doing it. There's no confirmed kills		20 A. No.
21	for just general fighting, if that makes sense.		21 Q. Do you recognize the device pictured on the
22	Q. But you know you hit someone at some point?		22 front?
23	A. It's more than likely that it was me that hit		23 A. Yes.
24	him, so that's always weighed on my conscious that I		24 Q. What is that?
25	believe that I did.		25 A. That is a taser.

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<p>1 Q. Does that look like the model of taser that 2 you carried around 2017?</p> <p>3 A. I believe so.</p> <p>4 Q. Okay. Do you remember the model number?</p> <p>5 A. I believe it was X26.</p> <p>6 Q. Okay. So is it safe to say this is the user 7 manual for the taser that you were carrying in 2017?</p> <p>8 MS. NICHOLS: Objection, foundation.</p> <p>9 THE WITNESS: I would say it's safe to say that if 10 in fact I was carrying the X26, it does look like the 11 user manual for the X26 taser.</p> <p>12 Q. (BY MR. LUTZ) Okay, great. We can document 13 that in your record later.</p> <p>14 A. Okay.</p> <p>15 Q. Okay. So we'll go through this in a little 16 bit more detail, but before we do, can you just 17 describe for me what a taser is used for?</p> <p>18 MS. NICHOLS: Objection, vague.</p> <p>19 Q. (BY MR. LUTZ) Let me rephrase. What's its 20 purposes?</p> <p>21 MS. NICHOLS: Objection, vague.</p> <p>22 THE WITNESS: Ultimately the taser is just a 23 nonlethal option for attempting to gain compliance, 24 yeah.</p> <p>25 Q. (BY MR. LUTZ) And how does it help you gain</p>	<p>1 Page 4. Okay. Looking at page 4, the lowest header 2 down here is titled Neuro Muscular Incapacitation, NMI.</p> <p>3 A. Yes.</p> <p>4 Q. Have you heard that term before?</p> <p>5 A. Yes.</p> <p>6 Q. And where have you heard that term before?</p> <p>7 A. In training.</p> <p>8 Q. Training with regard to anything in 9 particular?</p> <p>10 A. Yeah, I believe with tasers.</p> <p>11 Q. Okay. So let's just read this bottom 12 paragraph here which is "Taser technology is designed 13 to use electrical impulses similar to those in your 14 body's nervous system to cause stimulation of the 15 sensory and motor nerves. Neuro muscular 16 incapacitation (NMI) occurs when a CEW is able to cause 17 involuntary stimulation of both the sensory nerves and 18 the motor nerves. It is not dependent on pain and can 19 be effective on subjects with a high level of pain 20 tolerance."</p> <p>21 Is that your understanding of how a taser 22 works?</p> <p>23 A. More or less, yes.</p> <p>24 Q. What's the less?</p> <p>25 A. I mean, I think it goes -- there's a pretty</p>
Page 90	Page 92
<p>1 compliance?</p> <p>2 A. Like, can you -- how does it help me to gain 3 compliance?</p> <p>4 Q. Yeah.</p> <p>5 A. I mean, if there's somebody that's combative 6 and I use my taser, normally we can get them in 7 handcuffs easier.</p> <p>8 Q. What's the cause and effect there?</p> <p>9 A. What do you mean?</p> <p>10 Q. How does the taser help you gain compliance?</p> <p>11 A. Typically it should incapacitate somebody 12 where they no longer have like the physical ability to 13 like run, fight, do that kind of thing.</p> <p>14 Q. Okay. So it helps you gain compliance by 15 physically incapacitating someone?</p> <p>16 A. Yes.</p> <p>17 Q. And do you know what CEW stands for?</p> <p>18 A. Conducted weapon -- or no, sorry. Conducted 19 energy. I don't think it's weapon. Conducted energy 20 something. I can't remember. Does it say?</p> <p>21 Q. It does say there somewhere.</p> <p>22 Okay. Can you flip to page 4 of Exhibit 10.</p> <p>23 A. (Witness complies.)</p> <p>24 Q. I think this will help illustrate what I'm 25 getting at. Sorry. There's some introductory pages.</p>	<p>1 big policy here. Or manual. I think that is an 2 overgeneralization of how a taser can be effective.</p> <p>3 Q. Can you elaborate?</p> <p>4 MS. NICHOLS: Objection, vague.</p> <p>5 Q. (BY MR. LUTZ) What are the other ways it can 6 be effective?</p> <p>7 A. Well, so my point is, I mean, two different 8 deployment methods. There's, I mean, like I say, it's 9 just a very simplified generalization of what I would 10 be able to explain, but I don't have, like, the actual 11 probably verbiage that would be better.</p> <p>12 Q. It sounds like you know the taser well from 13 experience?</p> <p>14 A. Well enough, yes. Yeah.</p> <p>15 Q. What are the two deployment methods?</p> <p>16 A. So you can either deploy where you actually 17 discharge it and it shoots the two prongs out or you 18 can do what they call a drive stun.</p> <p>19 Q. Okay. Describe that first method in a little 20 more detail.</p> <p>21 A. So taser makes small different cartridges, 22 they have different distances that they can shoot, 23 there's different angles for the spread of the probes, 24 and I believe there's like a CO2 cartridge or something 25 that actually launches the probes out. If they make</p>

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1 contact with the subject, then that is what makes the
 2 connection for the taser to actually be able to send
 3 the -- or to perform the NMI.

4 Q. Okay. Is the cartridge the thing that
 5 contains the probes?

6 A. Yes.

7 Q. And then the probes are connected by some
 8 sort of conductive wire back to the handle?

9 A. Yes.

10 Q. Are the cartridges reloadable?

11 A. Yes.

12 Q. Are they -- I should ask this first. Are
 13 they one-time use?

14 A. So each individual cartridge is one-time use.
 15 You can't take those prongs/wire and roll them up and
 16 put them back in and reload it that way, no.

17 Q. But can you put a new cartridge in?

18 A. Yes.

19 Q. So that's -- roughly, that's the probe
 20 deployment?

21 A. Yes.

22 Q. What's the range on the probes?

23 A. I believe the ones that we were issued are 25
 24 feet, but like I said, there's multiple different
 25 cartridges you can get.

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1 If you pulled your taser and you decided between the
 2 two methods, is it really just the distance of the
 3 subject that you would use to determine?

4 A. I mean, there's probably -- obviously the
 5 totality of the situation is going to dictate which
 6 one.

7 Q. Okay.

8 A. So, yeah, it can't just be one thing that you
 9 go oh, now I'm going to do it.

10 Q. Fair enough. I guess, just to clarify, you
 11 can use the probe -- you can deploy the probes at a
 12 distance. With the drive stun you're going to be in
 13 close quarters, arm's reach?

14 A. You'd have to be able to touch them to use
 15 the drive stun.

16 Q. Okay. This next paragraph in Exhibit 10
 17 under the one we just read, this is obviously Tasers,
 18 it's a description of what this model does, but it's
 19 "Previous generations of stun guns primarily affected
 20 the sensory nerves only resulting in pain compliance.
 21 A subject with very high tolerance to pain (e.g., a
 22 drug user, person in serious psychological distress, or
 23 a trained focus fighter) may not be affected by the
 24 pain or might be able to fight through the pain of a
 25 traditional stun gun."

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1 Q. Okay. Do you think the one -- you think 25
 2 feet was what you carried?

3 A. I think so.

4 Q. And then what's the drive stun? How is that
 5 different?

6 A. So on kind of the end of the taser there's at
 7 least two, I think there's four different little metal
 8 contacts that -- almost like the stun guns that you see
 9 in the movies. It kind of acts the same. You actually
 10 have to make contact with that to be able to close the
 11 circuit to perform that on them.

12 Q. Okay. Does it have a different effect on the
 13 probes?

14 A. No. I mean, it's the same electrical
 15 connectivity. It's just less effective.

16 Q. I'm trying to see how to phrase this
 17 question. But in terms of, you know, it has these two
 18 different deployment methods, which I'm assuming one is
 19 appropriate for some situations and the other for
 20 others. Does that make sense?

21 Like, when would be a good situation,
 22 hypothetically, to use the probe deployment?

23 A. I mean, if you had distance and standoff, you
 24 could.

25 Q. Is that all that we're really thinking about?

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1 And it sounds like what they're -- the
 2 distinction they're making here is this model will
 3 incapacitate you through more than just pain?

4 MS. NICHOLS: Objection, calls for --

5 THE WITNESS: Correct.

6 MS. NICHOLS: Sorry. Calls for speculation,
 7 foundation.

8 Q. (BY MR. LUTZ) I mean, that's how it reads to
 9 me. Is that how it reads to you?

10 A. Sure, yes.

11 Q. And is it your understanding that it
 12 operates -- it physically incapacitates people not only
 13 by causing pain, but by causing NMI?

14 MS. NICHOLS: Objection, calls for speculation and
 15 expert testimony.

16 THE WITNESS: Sorry. Say it again.

17 Q. (BY MR. LUTZ) So our understanding of
 18 neuromuscular incapacitation is that that is different
 19 than pain compliance; right?

20 MS. NICHOLS: Same objections.

21 THE WITNESS: I believe so.

22 Q. (BY MR. LUTZ) Okay. At the end of the day
 23 the taser, if used correctly, will incapacitate someone
 24 physically; right?

25 MS. NICHOLS: Objection, calls for speculation.

<p style="text-align: right;">Page 97</p> <p>1 THE WITNESS: Potentially.</p> <p>2 Q. (BY MR. LUTZ) That's why you would attempt --</p> <p>3 A. I would attempt to use it, yeah, to attempt</p> <p>4 to take them down.</p> <p>5 Q. How many --</p> <p>6 A. Not for the pain compliance.</p> <p>7 Q. Right. How many times have you physically</p> <p>8 incapacitated somebody with a taser?</p> <p>9 A. Somewhere between eight to ten.</p> <p>10 Q. Have you ever used a taser against somebody</p> <p>11 that was carrying a weapon?</p> <p>12 A. No. Just the one incident I gave you before.</p> <p>13 That's the only time I thought there was a perceived</p> <p>14 weapon, potentially, and it ended up being a</p> <p>15 flashlight. So other than that, I think -- I think no.</p> <p>16 Q. Have you deployed a taser against someone who</p> <p>17 was being physically combative?</p> <p>18 A. Yes.</p> <p>19 Q. Can you tell me about one of those</p> <p>20 situations?</p> <p>21 A. Yeah, so there was a gentleman passed out on</p> <p>22 a porch. He actually came with balled fists, didn't</p> <p>23 obey commands, started coming at us as if he wanted to</p> <p>24 fight, we tased him.</p> <p>25 Q. Was he able to fight after you tased him?</p>	<p style="text-align: right;">Page 99</p> <p>1 Q. You just discovered him just trespassing?</p> <p>2 A. Uh-huh.</p> <p>3 Q. How did that situation end up getting</p> <p>4 resolved?</p> <p>5 A. We finally got him in handcuffs and he</p> <p>6 actually continued to fight after handcuffs, but yeah.</p> <p>7 Q. But in that case the drive stun was not</p> <p>8 effective?</p> <p>9 A. It was not effective.</p> <p>10 Q. Okay. You can put Exhibit 10 away.</p> <p>11 A. What's that?</p> <p>12 Q. You can put Exhibit 10 away.</p> <p>13 A. (Complies.)</p> <p>14 MS. NICHOLS: Nick, we've been going a little over</p> <p>15 an hour. If you're going to launch into a whole new</p> <p>16 thing, can we take a quick break?</p> <p>17 MR. LUTZ: Yeah.</p> <p>18 MS. NICHOLS: Okay. Thanks.</p> <p>19 (Recess taken from 11:20 a.m. to 11:33 p.m.)</p> <p>20 Q. (BY MR. LUTZ) Okay. We're back. In</p> <p>21 performing your duties as a Salt Lake City police</p> <p>22 officer on patrol, are you equipped with a body camera?</p> <p>23 A. Yes.</p> <p>24 Q. Always?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 98</p> <p>1 A. No, he was not.</p> <p>2 Q. And is that generally your experience with</p> <p>3 deploying your taser on combative folks?</p> <p>4 A. All but --</p> <p>5 MS. NICHOLS: Objection, vague.</p> <p>6 THE WITNESS: Sorry. I think all but one that I</p> <p>7 can think of in this moment.</p> <p>8 Q. (BY MR. LUTZ) What's the one you're talking</p> <p>9 about?</p> <p>10 A. That one we were in close proximity, I tried</p> <p>11 to use the drive stun and it was completely</p> <p>12 ineffective.</p> <p>13 Q. Can you tell me more about that situation?</p> <p>14 What was the behavior of the subject that led you to</p> <p>15 use the drive stun?</p> <p>16 A. He told me he was going to beat me to death.</p> <p>17 Q. Was he otherwise being physically combative?</p> <p>18 A. At that point not physically combative, but</p> <p>19 he was failing to follow any commands. Until my backup</p> <p>20 got there, we didn't engage physically.</p> <p>21 Q. How did you come into contact with this</p> <p>22 person?</p> <p>23 A. He was trespassing on someone's property.</p> <p>24 Q. Did you get a call to go out to there?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 100</p> <p>1 Q. Where is it equipped on your body?</p> <p>2 A. Currently right in the middle of my chest</p> <p>3 (indicating).</p> <p>4 Q. Okay. Do you know what brand it is?</p> <p>5 A. It's a Taser. Or an Axon taser, whatever</p> <p>6 they call it.</p> <p>7 Q. Axon. So you said right now it's placed on</p> <p>8 your chest and you were motioning towards your chest?</p> <p>9 Was it placed somewhere different in the past?</p> <p>10 A. Yes.</p> <p>11 Q. Where was it placed in the past?</p> <p>12 A. On a little -- like there was a little</p> <p>13 U-shaped collar piece that had a little magnet thing</p> <p>14 that would attach right here on your collar</p> <p>15 (indicating).</p> <p>16 Q. You're just motioning towards the collar of</p> <p>17 your shirt?</p> <p>18 A. Yeah.</p> <p>19 Q. Okay. In 2017 what was the placement?</p> <p>20 A. I think it was the one above my collar and so</p> <p>21 it would have been the little U-shaped magnet attached</p> <p>22 to the side of your neck or somewhere in that area I</p> <p>23 think (indicating).</p> <p>24 Q. Okay. And when you're gesturing up towards</p> <p>25 your collar, are we talking about where the lens of the</p>

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<p>1 camera is placed?</p> <p>2 A. Yeah. So it's like a little piece of metal 3 like I said, U-shaped, right. It's got a little magnet 4 on the one side, so it goes under your collar, I think, 5 and then the magnet from the side of the camera goes 6 right on the collar and the lens would be pointed 7 whichever way I'm facing.</p> <p>8 Q. Okay. So the camera lens is basically 9 attached to, like, your lapel and pointed in the 10 direction you're looking?</p> <p>11 A. Pretty much.</p> <p>12 Q. Okay. And where's the -- where's the control 13 module located on the body?</p> <p>14 A. Now or then?</p> <p>15 Q. Then in 2017.</p> <p>16 A. So there was a cord that I would run down and 17 I would usually try to put right on my belt, so right 18 here on the front of my belt (indicating).</p> <p>19 Q. Okay. And what is the -- what is the module? 20 Like, can you describe it?</p> <p>21 A. They're little square -- imagine the size of 22 like a deck of playing cards. Maybe the same rough 23 width and size-ish, big button in the middle.</p> <p>24 Q. And does it have controls on it?</p> <p>25 A. It's got a little slider switch I think.</p>	<p>1 A. Yes.</p> <p>2 Q. If you're going to question someone, should 3 you be recording someone?</p> <p>4 A. There are exclusions for when you're doing 5 interviews. I can't think of exactly what they are, 6 but I know there are some that you can actually turn it 7 off if -- if it's within the policy.</p> <p>8 Q. Can you give me an example of that?</p> <p>9 A. I can't remember. I know that there is 10 something that exists for turning it off if you need 11 to. I can't remember exactly when or how.</p> <p>12 Q. And do you know where that exclusion is 13 today?</p> <p>14 A. I can't think of it right now. I would have 15 to review the policy to tell you.</p> <p>16 Q. Do you upload the body camera footage at the 17 end of every shift?</p> <p>18 A. I mean, you can plug it in. Is that what you 19 mean?</p> <p>20 Q. Yeah, I mean, what do you do with the footage 21 that it records?</p> <p>22 A. Label it.</p> <p>23 Q. And store it somewhere?</p> <p>24 A. Yeah, I mean, I guess when you plug it in, it 25 uploads.</p>
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<p>1 Q. And what does that control?</p> <p>2 A. On and off.</p> <p>3 Q. Is that the only thing you can control on it?</p> <p>4 A. No. There's a button you can activate to 5 turn it off.</p> <p>6 Q. Under what circumstances, per SLCPD policy, 7 are you required to utilize your body camera as in use 8 it to record?</p> <p>9 MS. NICHOLS: Objection to the extent that you're 10 asking him to recall a lengthy policy manual.</p> <p>11 But you can testify as to what you recall.</p> <p>12 THE WITNESS: Yeah, I don't remember exactly what 13 the policy says, but the way that I understand it is if 14 I'm going to make contact with the public I think.</p> <p>15 Q. (BY MR. LJUTZ) As in interact with someone on 16 the street?</p> <p>17 A. There's been different iterations of it. It 18 was only ever on a call and then it became something 19 else, then it became something else, and so on and so 20 forth.</p> <p>21 Q. So sitting in your car by yourself, probably 22 not supposed to be recording?</p> <p>23 A. Not just generally, no.</p> <p>24 Q. But if you're going to make an arrest, should 25 you be recording?</p>	<p>1 Q. What do you plug it into?</p> <p>2 A. A little docking station.</p> <p>3 Q. At the station?</p> <p>4 A. Yes.</p> <p>5 Q. And then are you in control of what happens 6 with the footage after that?</p> <p>7 A. No.</p> <p>8 Q. Who is?</p> <p>9 A. I have no idea.</p> <p>10 Q. Do you plug it in to upload at the end of 11 every shift?</p> <p>12 A. No. I mean, there's shifts that run long and 13 then maybe you plug it in the next day. But yeah, I 14 mean, 99 percent of the time at the end of your shift 15 you don't want to take that home with you, there's no 16 reason to, just plug it in.</p> <p>17 As far as I do, I just plug it in so that the 18 battery works the next day so I don't run out of juice.</p> <p>19 Q. Okay. To your knowledge, has your body 20 camera ever malfunctioned?</p> <p>21 A. Yes.</p> <p>22 Q. How often has that happened?</p> <p>23 A. Like total?</p> <p>24 Q. Yeah. How many times has any body camera 25 that you utilized malfunctioned?</p>

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1 A. Five or ten. 2 Q. And what was the result of the malfunction? 3 A. What do you mean the result of? 4 Q. So what happens? How have they 5 malfunctioned? 6 A. I had -- so the one that goes up your collar, 7 there's a cord that would run down to the control pack. 8 If I've been like kind of going over fences and 9 rooftops and that cord is broken, obviously we can't 10 control it when there's no battery power, no recording. 11 I've had it kicked off of my chest before 12 where the one that I had that was a magnet controlling 13 that got booted off. I've had it while I was actually 14 in a physical altercation with somebody that the little 15 power switch that was on my belt, that actually got 16 swiped and just turned the unit off. I've had it run 17 out of battery power on me. 18 Q. Have you ran into a situation where the 19 footage was damaged or corrupted or anything like that? 20 A. Not that I know of. I have no idea. 21 Q. Do they record audio? 22 A. Yes. 23 Q. Does it always record audio? If it's 24 activated, is it recording audio? 25 A. You can turn it off.	1 in a criminal prosecution? 2 A. Probably. 3 Q. Have you ever sat on the stand and testified 4 as to -- 5 A. No. 6 Q. -- your own body camera footage? 7 A. No. 8 Q. Really? I'm just surprised. I'm not 9 questioning your answer. 10 But to your knowledge, that footage gets 11 admitted in court sometimes, right, as evidence? 12 MS. NICHOLS: Objection, calls for speculation. 13 THE WITNESS: I actually have no idea. I've never 14 had my camera be admitted into a court case I've been a 15 part of. 16 MR. LUTZ: Okay. Can we talk about the -- 17 actually, scratch that. Can we actually break now? 18 MS. NICHOLS: For lunch? 19 MR. LUTZ: And then, yeah, just kind of shift that 20 back? 21 MS. NICHOLS: Sure. 22 Is that all right with you (to the witness)? 23 THE WITNESS: (Nods head.) 24 MR. LUTZ: That would just work better for 25 organization if that's all right.
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1 Q. The audio specifically? 2 A. Like you could mute it so it doesn't record 3 audio. 4 Q. Okay. How would you describe the quality of 5 the footage produced by the body cameras that you've 6 utilized? 7 MS. NICHOLS: Objection, vague. 8 Q. (BY MR. LUTZ) Let's be more specific. Is it 9 generally clear? 10 A. Sometimes. Sometimes not. 11 Q. Do you believe that it can be -- the footage 12 that body cameras produce can be helpful in 13 understanding the events that it's recorded? 14 A. Yes. 15 MS. NICHOLS: Objection, vague and calls for 16 speculation. 17 Q. (BY MR. LUTZ) Is body camera footage ever 18 used to help in criminal prosecutions? 19 MS. NICHOLS: Objection, calls for speculation. 20 MR. LUTZ: I think you know that from personal 21 experience. It's not speculation. 22 THE WITNESS: Yes. 23 Q. (BY MR. LUTZ) Has your body camera footage 24 ever been -- or body camera footage that was recorded 25 from the unit you were wearing ever been used to assist	1 THE WITNESS: Yeah. 2 (Recess taken from 11:44 a.m. to 12:34 p.m.) 3 Q. (BY MR. LUTZ) Officer Fox, I want to talk to 4 you about -- in your time with Salt Lake City Police 5 Department, have you been trained in the department's 6 policy for the use of deadly force? 7 A. Yes. 8 Q. What is your understanding of what -- under 9 what circumstance you as an officer are permitted to 10 use deadly force? 11 MS. NICHOLS: Objection, calls for a legal 12 conclusion. 13 MR. LUTZ: According to Salt Lake City Police 14 Department policy. 15 THE WITNESS: If it's in defense of myself or 16 others. 17 Q. (BY MR. LUTZ) Is there anything more than 18 that? 19 A. I mean, defense of myself and others if 20 there's -- I can't remember the words they use, but 21 if -- I think it says to prevent serious harm or death. 22 I'm not sure exactly what words it is, but basically 23 harm or death in defense of myself and others. 24 Q. Okay. Are you introduced to that policy at 25 the academy stage?

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1 A. Yes.	1 officer, you are required to undergo continuous
2 Q. And is it your understanding that that policy	2 training; correct?
3 is based on a legal standard?	3 A. Yes.
4 MS. NICHOLS: Objection, calls for speculation.	4 Q. Are any of these trainings basically
5 THE WITNESS: I believe that it mirrors very, very	5 refreshers for things that you may have already learned
6 closely to the statute here in Utah.	6 at the academy?
7 Q. (BY MR. LUTZ) Which statute are you referring	7 A. Yes.
8 to?	8 Q. Are you required to undergo continuous
9 A. I mean, there's a statute that covers the use	9 training on the use of deadly force standard?
10 of deadly force. I can't remember what the actual	10 MS. NICHOLS: Objection, vague and ambiguous.
11 statute number is.	11 Ambiguous as to the term continuous.
12 Q. The use of deadly force by a police officer	12 THE WITNESS: So are you asking if there's like a
13 or by a civilian in self defense?	13 minimum number of hours or time spent every year
14 A. I can't -- I want to say that there's just	14 covering specifically the use of deadly force?
15 one policy for both. Or not policy, but the statute	15 Q. (BY MR. LUTZ) Is there?
16 would dictate both. And then I think the policy is	16 A. I don't believe there is.
17 just mirrored off for police policy. I don't --	17 Q. But certainly you've encountered refreshers
18 honestly, I just don't remember if there is a separate	18 on the federal Fourth Amendment standard and the use of
19 policy for police or civilians. I think there's just	19 force standards; right?
20 one for the use of deadly force.	20 A. I mean, I would imagine that I've been to
21 Q. Okay. Have you received training on the	21 some trainings, sure.
22 federal Fourth Amendment standard?	22 Q. Any idea how many?
23 A. Yes, in the police academy.	23 A. No.
24 Q. Can you describe what the federal Fourth	24 Q. In your time with the Salt Lake City Police
25 Amendment prohibits?	25 Department, have you been trained on specific scenarios
Page 110	Page 112
1 MS. NICHOLS: Objection, calls for a legal	1 where it would be appropriate to use deadly force?
2 conclusion.	2 A. Yes.
3 MR. LUTZ: In terms of use of force.	3 Q. And have you ever done trainings, for
4 THE WITNESS: Like in reference to search and	4 example, in your SWAT trainings where you would role
5 seizure or am I thinking of the right Fourth Amendment?	5 play scenarios that might involve the use of deadly
6 Q. (BY MR. LUTZ) I'm referring to the federal	6 force?
7 Fourth Amendment of the federal Constitution.	7 A. Yes.
8 A. Right.	8 Q. Is that a common theme of some of these
9 Q. Let me clarify. Actually, let's go somewhere	9 trainings?
10 else. Have you been trained on the Graham factors?	10 MS. NICHOLS: Objection, vague.
11 A. Graham v. Connor?	11 THE WITNESS: Like what do you mean a theme?
12 Q. Uh-huh.	12 Q. (BY MR. LUTZ) When you're training for
13 A. Yes.	13 different SWAT scenarios, for example, you're training
14 Q. Do you know what those factors are?	14 on circumstances where you would encounter armed
15 A. I don't think I would be able to tell you	15 suspects, for example?
16 right off my head, no.	16 A. Yeah.
17 Q. Are you familiar with Tennessee v. Gardner?	17 Q. That would be a typical subject that some of
18 A. I am. Same thing. I don't think I could	18 your trainings would touch on?
19 tell you right off my head.	19 A. Yes.
20 Q. Do you recall if you've been trained on the	20 Q. Okay.
21 holding of Tennessee v. Gardner?	21 (Exhibit 11 marked.)
22 A. I am aware of Tennessee v. Gardner, so I'm	22 Q. (BY MR. LUTZ) Okay. Officer Fox, I've handed
23 sure that I've attended trainings for that. Like I	23 you what's been marked as Exhibit 11. Do you recognize
24 said, I just can't recall right now.	24 this document?
25 Q. As a Salt Lake City Police Department	25 MS. NICHOLS: If I could just note for the record,

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1 it appears to be an excerpt starting at page 185 and I
 2 understand counsel's going to print a cover page to add
 3 momentarily.

4 MR. LUTZ: Correct.

5 THE WITNESS: (Peruses document.)

6 MR. LUTZ: Go ahead and take a look.

7 THE WITNESS: What was the question?

8 Q. (BY MR. LUTZ) Do you recognize this document?

9 A. I recognize what's in the document. It's a
 10 printout of policies, but it isn't fashioned in the
 11 normal way that I review policies, no.

12 Q. Okay. Do you recognize the content though?

13 A. Yeah, I mean, I would agree it's probably the
 14 policies; right? I mean, I have no idea if this is
 15 actually from our policy book or not.

16 Q. Okay. So safe to say you haven't committed
 17 what you see here to memory?

18 A. I mean, I've -- not verbatim, no.

19 Q. Take a look under the heading Authority to
 20 Use Deadly Force and then it says "Peace officer's use
 21 of deadly force: A peace officer, or any person acting
 22 by his command, in his aid and assistance, is justified
 23 in using deadly force when," and there's five bullet
 24 points there, and you see the fifth bullet point there?

25 It says "The officer reasonably believes that

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1 MS. NICHOLS: Objection, foundation.

2 THE WITNESS: I would say yeah, probably.

3 Q. (BY MR. LUTZ) Okay. You can put Exhibit 11
 4 to the side.

5 A. (Complies.)

6 Q. What does the Salt Lake City Police
 7 Department's use of force -- use of deadly force policy
 8 prohibit?

9 MS. NICHOLS: Objection, vague.

10 THE WITNESS: I'm not sure what -- if I have the
 11 policy right here, can I read it and I can tell you
 12 exactly what it says in the policy?

13 MR. LUTZ: I'd like to know your understanding in
 14 your experience.

15 THE WITNESS: I guess I'm not understanding what
 16 it prohibits. I'm struggling to recall what it says
 17 about prohibiting anything. I'm sure there's plenty of
 18 stuff it prohibits, but I'm not sure.

19 Q. (BY MR. LUTZ) Phrased another way, what does
 20 the policy require?

21 A. In order to use deadly force?

22 Q. Uh-huh. Yes.

23 A. I think it says something that I would have
 24 to have reasonable belief that I'm in fear for my
 25 safety or the safety of others to prevent serious

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1 the use of deadly force is necessary to prevent death
 2 or serious bodily injury to the officer or another
 3 person."

4 See that?

5 A. Yes.

6 Q. Is that what you were referring to when you
 7 were explaining your understanding to me of the
 8 department's policy on use of deadly force?

9 A. Yes.

10 MS. NICHOLS: Objection, foundation.

11 Go ahead.

12 THE WITNESS: Sorry. Yes, I do. Or that's what I
 13 was recalling from memory, yes.

14 Q. (BY MR. LUTZ) I'm going to hand you a cover
 15 page to the exhibit. So we've just added a cover page
 16 to the excerpt.

17 A. Sure.

18 Q. What's the title of that cover page?

19 A. Are you asking me?

20 Q. Yes.

21 A. Salt Lake City Police Department Policies and
 22 Procedures Manual Updated on October 13th, 2017.

23 Q. Okay, great. So safe to say the excerpt of
 24 the policies we just looked at were the ones in effect
 25 on October 2017?

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1 bodily harm. It goes back to that same paragraph that
 2 we pointed out.

3 Q. Are there other circumstances where you're
 4 permitted to use deadly force other than the one you
 5 just described?

6 A. I know that, you know, again, that would be
 7 convoluting between what I know the statute reads and
 8 what our policy reads. I'm not sure where it
 9 differentiates. And there's four other bullets that I
 10 can't a hundred percent say from memory exactly when
 11 the other times, but I believe that at least within the
 12 state statute, that it covers other times. So I don't
 13 know. I'm not sure.

14 Q. So if you are evaluating whether or not it
 15 would be appropriate to use deadly force, are you
 16 thinking about the state statute or are you thinking
 17 about the departmental policy or are you thinking about
 18 something else?

19 A. If I'm attempting?

20 Q. Yes.

21 A. The only time that I've ever been faced with
 22 a question of whether using deadly force or not it's
 23 been in that one specific category, so I'm probably
 24 weighing it against what policy matches the state
 25 statute on, so it would essentially, I think, be

<p style="text-align: right;">Page 117</p> <p>1 covering both. I'm not trying to pick one or the 2 other. I'm just focusing on that one particular 3 paragraph, if that's the most prudent one to decide at 4 the moment.</p> <p>5 Q. Okay. All right. Let's talk about August 6 13th, 2017. Were you working that day as a patrol 7 officer?</p> <p>8 A. I believe so, yes.</p> <p>9 Q. What shift?</p> <p>10 A. I believe I was on the graveyard shift.</p> <p>11 Q. What hours is the graveyard shift?</p> <p>12 A. I work graveyards right now, but we do 12s 13 and it's 6:00 to 6:00. I think it's 9:00 to 7:00. Or, 14 I'm sorry, it was 9:00 to 7:00. I actually don't know 15 if it's still 9:00 to 7:00, but I think the hours of 16 that shift was 9:00 to 7:00 p.m.</p> <p>17 Q. 9:00 p.m. to 7:00 a.m.?</p> <p>18 A. Yes. Sorry.</p> <p>19 Q. Okay. Can you walk me through what happened 20 after you started your shift that day on August 13th, 21 2017?</p> <p>22 MS. NICHOLS: Objection, vague, calls for a 23 narrative.</p> <p>24 THE WITNESS: So I know on that night, I mean, 25 every shift, most every shift begins with a lineup, so</p>	<p style="text-align: right;">Page 119</p> <p>1 we went out. I think we were having a conversation in 2 the parking lot. Honestly, I don't remember.</p> <p>3 Q. Okay. So at this point you're still at the 4 PSB?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. At some point did you leave?</p> <p>7 A. Yes.</p> <p>8 Q. Why did you leave?</p> <p>9 A. So Officer Smith had requested for a back and 10 so me and Kris, or sorry, me and Scott left to go back 11 him.</p> <p>12 Q. Okay. So by that, just to clarify, Officer 13 Kris Smith radioed for backup patrol officers?</p> <p>14 A. Yes.</p> <p>15 Q. And you and Officer Scott Robinson decided to 16 respond to that request?</p> <p>17 A. Yes.</p> <p>18 Q. What did you do next?</p> <p>19 A. We ended up driving to the scene and ended up 20 backing Kris.</p> <p>21 Q. Okay. Did Officer Smith provide any more 22 information in the call about why he was calling for a 23 backup?</p> <p>24 A. Not that I recall, no.</p> <p>25 Q. Do you recall what the request was or what</p>
<p style="text-align: right;">Page 118</p> <p>1 we had lineup. We cleared lineup and then I ended up 2 in the, what we call P1. It's just the first level of 3 our parking garage. And me and Scott Robinson were, I 4 think, just having a conversation.</p> <p>5 Q. (BY MR. LIUTZ) Okay. Going back, what's 6 lineup?</p> <p>7 A. Morning briefing.</p> <p>8 Q. Do you recall anything in particular about 9 that morning briefing?</p> <p>10 A. Like as far as in?</p> <p>11 Q. Just anything that stands out in your mind.</p> <p>12 A. Not really. It was just a normal briefing. 13 I mean, you show up after briefing.</p> <p>14 Q. Okay. Nothing out of the ordinary?</p> <p>15 A. No.</p> <p>16 Q. Okay. So you're having a conversation with 17 Scott Robinson. About what time was that?</p> <p>18 A. I have no idea. Immediately -- if we're 19 there at 9:00, and that's if 9:00, I don't remember 20 exactly what time the briefing went to, but it would 21 have been following immediately after that. If it 22 wasn't 9:00, it might have been 10:00. I don't 23 remember.</p> <p>24 Q. Okay.</p> <p>25 A. But, yeah, so whatever the duration was, then</p>	<p style="text-align: right;">Page 120</p> <p>1 words were used?</p> <p>2 A. I think he called for a 1078.</p> <p>3 Q. What is that?</p> <p>4 A. It's just I need a backup. So if you call 5 for a 1078, it's just like saying hey, I need somebody 6 to come back me.</p> <p>7 Q. Okay. So that's all the information you had 8 heading out there --</p> <p>9 A. I believe so.</p> <p>10 Q. -- to go meet Officer Smith? Okay.</p> <p>11 How long did it take you to arrive at Officer 12 Smith's location?</p> <p>13 A. A minute or two.</p> <p>14 Q. Okay. What happened when you got there?</p> <p>15 A. As soon as we got there, I walked up and I 16 met with Patrick Harmon.</p> <p>17 Q. Okay. Can you help me lay the scene a little 18 bit as you arrive. So where was Officer Smith when you 19 arrived?</p> <p>20 A. If he wasn't walking to his car, then he was 21 already in his car when I pulled up, but I am not a 22 hundred percent certain. I think he was in his car 23 already.</p> <p>24 Q. Okay.</p> <p>25 A. But I'm not -- I don't remember a hundred</p>

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1	percent. He might have been on his way to his car,	1	A. Um, so I don't know. I mean, I don't know
2	getting into his car as I pulled up. I don't remember.	2	exactly what the interaction we had was, but one of the
3	Q. You mentioned Patrick Harmon.	3	first things I did was ask him to just kind of step off
4	A. Yeah.	4	his bicycle.
5	Q. Did you see Patrick Harmon somewhere in that	5	Q. Okay. And he had been straddling it up to
6	area?	6	that point?
7	A. Yes.	7	A. Yes.
8	Q. Where was he in relation to Officer Smith?	8	Q. After you asked him to step off of his
9	A. You'd call it 1:00 o'clock. Off the tip of	9	bicycle, did he comply with you?
10	his car.	10	A. Yes, he did.
11	Q. Okay. And what was Patrick Harmon doing?	11	Q. Do you recall what he was wearing?
12	A. He was straddling a bicycle.	12	A. It was a black t-shirt, dark colored. I
13	Q. And did you know who that was at that time or	13	don't think they were black jeans, but super dark blue
14	do you only now know that that's Patrick Harmon?	14	jeans, backpack, glasses, and he had a necklace of some
15	A. I did not know who that was at the time.	15	sort.
16	Q. Okay. Where did you -- you drove up in your	16	Q. Did he have anything else on his person?
17	patrol car; correct?	17	A. What do you mean?
18	A. Yes.	18	Q. Did he have a backpack? Sorry. Go ahead.
19	Q. Where did you park it?	19	A. Yeah, I said backpack.
20	A. Directly behind Kris's car.	20	Q. Oh. Okay. So Mr. Harmon gets off the bike.
21	Q. Okay. And where was Officer Robinson in	21	What did you say to him next?
22	relation to you when you arrived?	22	A. I have no idea.
23	A. I think he was directly behind me.	23	Q. Under the circumstances is there something
24	Q. Okay.	24	that you ordinarily would have done?
25	A. I'm pretty sure that's where he was.	25	A. No, not really.
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1	Q. Okay. So the three patrol cars are in a	1	Q. Did Mr. Harmon say anything to you?
2	line; is that right?	2	A. So I don't know. I mean, at some point we
3	A. Yeah. As far as I can remember, yeah, I	3	engaged each other back and forth. What was said I
4	believe so.	4	don't know, but we definitely had a conversation, but I
5	Q. Officer Smith is in the front closest to	5	just don't know what it was about.
6	Patrick Harmon followed by you, followed by Officer	6	Q. And had you activated your body camera at
7	Robinson --	7	this point?
8	A. Yes.	8	A. So as I came walking up, I thought I had
9	Q. -- behind you?	9	double tapped my button. Apparently it hadn't
10	A. Yes.	10	activated. It was later on the stop I activated it.
11	Q. After you pulled up behind Officer Smith,	11	So at that point, no, I don't think it was recording
12	what did you do next?	12	any audio or video.
13	A. Like I said, I walked up and met with	13	Q. Okay. So do you recall anything that Patrick
14	Patrick.	14	Harmon said to you?
15	Q. Did you stop and talk to Officer Smith first?	15	A. So I know during that interaction, like I
16	A. I don't believe I did.	16	say, I don't know if I said something to him or if he
17	Q. And what was the distance between Mr. Harmon	17	said something to me, but through the interaction he
18	and Officer Smith's car?	18	started telling me something about warrants. He told
19	A. A couple of feet.	19	me he was trying to get right with God. He told me
20	Q. And what was Mr. Harmon doing when you	20	that he was trying to take care of his stuff. I mean,
21	approached him?	21	for the most part it was a lot of him saying he was
22	A. He was straddling his bicycle.	22	trying to get right with God.
23	Q. And did you say anything to him?	23	And I remember telling him, I was like all
24	A. Yeah, I probably said hi.	24	right, cool, man. I was like if that seems to be the
25	Q. Anything else?	25	case, you know, we can try to help you take care of the

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1 warrants if that's going to help you get your life in
 2 order and do whatever else. I don't know exactly what
 3 was said, but something along those lines.

4 Q. Okay. Can you describe his demeanor?

5 A. Yeah. At the beginning he seemed what
 6 appeared -- I mean, he seemed more in line with what is
 7 considered to be normal on a stop like that, what I
 8 would think is normal. He didn't seem frantic or
 9 emotional. As it kind of developed, he did become
 10 emotional and he seemed very either anxious or
 11 agitated, or whatever the right word would be to
 12 describe.

13 But he definitely got -- he wanted a
 14 cigarette, so I let him have a cigarette, and that was
 15 to try to calm his nerves because he was getting a
 16 little bit more kind of antsy if that makes sense.

17 Q. Okay. And when you say as it developed,
 18 just -- do you mean just as the time continued to pass?

19 A. Yes. Yes.

20 Q. Okay. And at some point -- well, let's go
 21 back. Where are Officers Smith and Robinson at that
 22 point in relation to you and Mr. Harmon?

23 A. So I believe Kris is in the driver seat of
 24 his car and I think Scott is actually standing next to
 25 the window on the passenger side.

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1 Q. Okay. And do you know if they're having a
 2 discussion?

3 A. I don't know what they were doing.

4 Q. Okay. At some point did either or both of
 5 the officers come to where you and Mr. Harmon are?

6 A. Yes.

7 Q. About how long were you standing there with
 8 Mr. Harmon before the other officers approached you
 9 both?

10 A. Honestly, I think it was only like a minute,
 11 maybe two, but I don't -- I'm not a hundred percent
 12 sure. I think it was just a couple minutes though.
 13 Not long.

14 Q. Did you have any sense that Mr. Harmon was
 15 intoxicated?

16 A. No.

17 Q. And did -- up to this point in the
 18 interactions, so before the other officers had come to
 19 join you, had he done -- had Mr. Harmon presented any
 20 sort of threatening behavior?

21 A. No.

22 Q. Were you concerned about what you were
 23 describing as sort of his growing, how did you describe
 24 it?

25 A. Either anxious or agitated. I can't remember

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1 exactly what words I just used, but, yeah, anxious. He
 2 was a little bit more -- he was becoming a little bit
 3 more emotional.

4 Q. Were you concerned about that?

5 A. Not at the time, no.

6 Q. Okay. That didn't make you feel that your
 7 safety was -- that your safety was under some kind of
 8 threat?

9 A. No.

10 Q. Okay. So some amount of time passes, I think
 11 you said a minute or two, Officers Smith and Robinson
 12 approach you. What does Officer Smith do?

13 A. I believe he just immediately started to
 14 engage Patrick.

15 Q. Verbally?

16 A. Yes.

17 Q. Do you recall what he said?

18 A. Something about him having a warrant I think.
 19 I don't remember exactly what it was, but he said
 20 something about him having a warrant.

21 Q. Where are you standing in relation to
 22 Mr. Harmon at this point?

23 A. I would have been between the patrol car.
 24 Like if this is the bumper of the patrol car, I would
 25 have been just directly in front, maybe a little bit

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1 right of center, wherever the -- I think at one point I
 2 was actually sitting on the hood of the car. I might
 3 have just like leaned back against it just kind of
 4 hanging out.

5 Q. Okay. Facing Mr. Harmon?

6 A. Yes.

7 Q. Okay. And then where is Officer Smith when
 8 he begins to verbally engage Mr. Harmon?

9 A. So he comes up off of my left side and would
 10 have positioned himself at some point -- I think a
 11 little bit of the conversation happened almost as he's
 12 like right in line, maybe just a little bit forward of
 13 being on line with me, and that's where he kind of
 14 starts to actually talk to Patrick I think.

15 Q. So sort of to your side and to Mr. Harmon's
 16 side?

17 A. A little bit, yeah.

18 Q. Would it be to the right side and your left
 19 side?

20 A. Yeah.

21 Q. Okay. And at the same time, where is Officer
 22 Robinson?

23 A. So he came from, again, the passenger side,
 24 and he walked up, and I think he walked a little bit
 25 more forward of what would have been like on line with

1 us, so he ended up just going to my right and forward a
 2 little bit which would have been Patrick's left and
 3 just almost directly to his side. I think somewhere in
 4 that area.

5 Q. Okay. And did Officer Robinson say anything
 6 during this time?

7 A. I don't think so.

8 Q. I think that you said that Officer Smith said
 9 something to Mr. Harmon about having a warrant?

10 A. (Nods head.)

11 Q. Prior to that, did you know anything about a
 12 warrant with Mr. Harmon?

13 A. So I believe, in the conversation that I was
 14 having with him, he mentioned something about either
 15 charges or a warrant. I don't remember exactly how the
 16 conversation went. He mentioned that he was trying to
 17 take care of something. And I can't remember if he
 18 said I'm trying to take care of my charges which
 19 doesn't necessarily mean a warrant, but he also might
 20 have said something about I'm trying to take care of my
 21 warrant. I just don't remember how the conversation
 22 went. But I believe it was something to that effect
 23 either way, but I don't remember. I don't recall.

24 Q. And did Officer Smith mention to you or
 25 Mr. Harmon what the warrant was for?

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1 A. So he would have been like here and the bike
 2 would have been somewhere right here (indicating).

3 Q. Okay. So you're motioning --

4 A. Sorry. Yeah, so he was . . .

5 Q. Want to draw it?

6 A. I mean, I'm a terrible artist.

7 Q. You can just mark it with circles and lines.

8 A. So if the red line is the gutter and that is
 9 the car, I would have been right there (indicating).

10 Q. Near the X?

11 A. I believe I -- yeah, I would be the X. I can
 12 write "me" if that helps. Bike is about right there
 13 (indicating).

14 Q. Okay.

15 A. And I'm just going to draw a big circle to
 16 that general area because that's about where Patrick
 17 would have been.

18 Q. Okay.

19 A. So something --

20 Q. And can you mark on there where the other two
 21 officers were.

22 A. At which point?

23 Q. At the point where Officer Smith has told
 24 Mr. Harmon he's -- something about a warrant, he --
 25 Officer Smith has taken control of the left arm and

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1 A. No.

2 Q. Did Officer Smith mention to you or
 3 Mr. Harmon what the crime was of the warrant?

4 A. No.

5 Q. Okay. They have this exchange. What happens
 6 next?

7 A. So at that point I think Kris goes a little
 8 bit more directly to Patrick's right side and attempts
 9 to, like, take the backpack off and starts to, I think,
 10 try to grab his right hand to take control of it to be
 11 able to handcuff.

12 Q. And what did Officer Robinson do around this
 13 same time?

14 A. So he approached from the other side and I
 15 either tried to help with the backpack or something. I
 16 think he was also trying to get the left hand to take
 17 that under control.

18 Q. Okay. Where is the bicycle?

19 A. So, I mean, where I was standing it would
 20 have been maybe just a little bit forward and to the
 21 right of me.

22 Q. Okay.

23 A. Just like right along the gutter.

24 Q. Was the bicycle in between you and Mr. Harmon
 25 at this point in your interaction?

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1 Officer Robinson has taken control of the other arm.

2 A. (Indicating.)

3 That's KS for Kris Smith and that's SR for
 4 Scott Robinson.

5 Q. Okay, great. Thank you.

6 (Exhibit 12 marked.)

7 Q. (BY MR. LUTZ) Okay. And I understand what
 8 happens next is fast. Can you just walk me through
 9 your memory of the next several seconds.

10 A. So as they start to pull the backpack off, I
 11 know that they -- so they've got his hands, they've
 12 gotta get the backpack off, they gotta disconnect,
 13 reconnect, backpack comes off, and at about that point
 14 Patrick rips his hands out of the control from what
 15 Kris and Scott had and then he takes off running.

16 Q. Where does he run?

17 A. He ran between the bicycle and Scott towards
 18 the sidewalk.

19 Q. Okay. And about -- did he change direction
 20 at some point?

21 A. Yes.

22 Q. About how far did he run before he changed
 23 direction?

24 A. I mean, from wherever he was standing to
 25 almost exactly where the sidewalk is. I just can't

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1 remember if there's a grass park strip or if it just
 2 goes gutter, sidewalk, and then grass because I know
 3 there's grass on the other side. I don't -- I don't
 4 remember. Five to ten feet-ish. I don't know.

5 Q. What did you do when Mr. Harmon kind of broke
 6 free of the other two officers?

7 A. I started to try to chase him.

8 Q. Did you reach out and try to grab him?

9 A. At one point I think I did, yes.

10 Q. Okay. Walk me through what happened next.

11 A. So as soon as Patrick started to run, he was
 12 reaching for his right pocket. He said something to
 13 the effect of I'll cut you, or he used the word cut,
 14 and I believe what he said is I'll cut you. At some
 15 point whatever Scott had going on, he ends up falling
 16 down, and then that's when Patrick changes direction
 17 and starts running south on the sidewalk.

18 Q. So Officer Robinson fell down and then
 19 Mr. Harmon turned south?

20 A. Yeah, so the way that at least I perceived it
 21 was as soon as he took off running, he was running more
 22 what would be west towards the sidewalk. He didn't
 23 really break either direction until after he -- either
 24 Scott fell or he pushed Scott, or however that
 25 happened, I don't know. But once he was no longer

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1 trying to engage with Scott, he ended up going south on
 2 the sidewalk.

3 Q. Okay. And you said you had let him have a
 4 cigarette to calm his nerves?

5 A. Yes.

6 Q. At the time you broke away, did he still have
 7 that cigarette in his mouth?

8 A. I believe so, yes.

9 Q. So after he makes that turn that we just
 10 discussed in a southward direction I believe; correct?

11 A. I believe so, yes.

12 Q. What did he do then?

13 A. So once he -- once Scott wasn't holding on to
 14 him anymore, he started kind of running. He was
 15 stilling digging in his right pocket as he ran south on
 16 the sidewalk.

17 Q. Okay. And where were you in relation to him?

18 A. At that point I had kind of pulled in
 19 directly behind him on the sidewalk as he was running.

20 Q. Okay. But you could see him reaching into
 21 his right pocket?

22 A. For a second, yeah.

23 Q. Where is Officer Smith?

24 A. Honestly, at that point I have no idea. He
 25 was off to the left. As soon as we took running right,

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1 he was no longer in my field of vision. And then even
 2 when I turned left as we started moving south along
 3 that sidewalk, I had yet to see him or see where he
 4 was. I just -- through the commotion I could hear that
 5 he was somewhere right here. I just -- he was off to
 6 my left and behind my field of view, so I don't really
 7 know what his position was (indicating).

8 Q. Okay. At what point did you draw your gun?

9 A. So I believe I drew my gun as we -- again,
 10 where Patrick started to run from moving past the bike
 11 through the curb, when he said I'll cut you, that's
 12 when I drew my gun.

13 Q. How close were you physically to him at that
 14 point?

15 A. Arms length to arm and a half.

16 Q. Were you attempting to grab him while you
 17 attempted to draw your gun?

18 A. I don't think so. Honestly, at that point
 19 I'm not a hundred percent sure if I was actually
 20 grabbing him, if it happened simultaneous or one or the
 21 other, but, I mean, just through a snapshot of a
 22 moment, it was -- it could have -- those two things
 23 could have overlapped.

24 I do believe I reached out and tried to grab
 25 him at one point. You know, not a hundred percent sure

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1 exactly what was going on in that specific moment, but,
 2 yeah, those two things might have overlapped; if I was
 3 actually trying to reach out and grab him or whatever
 4 and then drawing my gun.

5 Q. Okay. And how much time has elapsed since
 6 Mr. Harmon initially broke free from the other
 7 officers?

8 A. Fraction of a second. Half a second.

9 Q. Okay. So Mr. Harmon is running southward,
 10 you've lost sight of Kris. Where is Robinson?

11 A. Last I saw him he was on the ground. I'm not
 12 sure.

13 Q. Okay. What happened in those next several
 14 seconds?

15 A. So as Patrick was running, he starts to turn
 16 his feet. I know that as he was running, the one thing
 17 I was able to perceive was his right foot turning,
 18 planting, and him changing directions from now running
 19 away from me to now turning to try to come back at me.

20 Q. Okay. What did you do in response to that
 21 motion?

22 A. So I tried to stop.

23 Q. And did Mr. Harmon actually start moving back
 24 towards you?

25 A. I don't think he actually started moving back

<p style="text-align: right;">Page 137</p> <p>1 at me yet.</p> <p>2 Q. Had he turned around to face you?</p> <p>3 A. I believe he was turning to face me. I don't know if he ever actually got squared up with me, if it was a half turn, quarter turn, but he was turning back at me.</p> <p>7 Q. What's happening with the rest of his body language in this moment?</p> <p>9 A. What do you mean?</p> <p>10 Q. What's he -- is he doing anything with his hands?</p> <p>12 A. Yeah. So as soon as he planted his right foot, as he was doing that, he yelled at me and he said I'll fucking stab you. As he planted that right foot and he said that, I thought oh, no, whatever was in his pocket, he got out. So from seeing his foot, I looked, I was trying to see if his hand was still in his pocket, it wasn't. By the time I was able to track and find his hand, his hand was up somewhere chest to shoulder height and he was holding a knife.</p> <p>21 Q. Up until this point you had not seen anything in his hands?</p> <p>23 A. Up until that point, he did not have anything in his hands.</p> <p>25 Q. But in this moment that you're saying that he</p>	<p style="text-align: right;">Page 139</p> <p>1 shirt and everything, it just -- I don't know exactly.</p> <p>2 Like, center mass.</p> <p>3 Q. Did you hear Officer Smith's taser go off?</p> <p>4 A. I did not.</p> <p>5 Q. Walk me through the next few seconds after you fired the three shots.</p> <p>7 A. So as soon as I shot, Patrick fell down and I maintained cover, and Scott had called backup and he -- so first -- so Patrick goes down, I stay on gun, Kris actually calls out on the radio, and then Scott says that he'll handcuff him. I can't remember exactly what the exchange was, but he said he would cuff him, or whatever he said, and then I kind of confirmed to him that I would stay to cover Patrick.</p> <p>15 Q. Okay. And you and the other -- all three officers approached Mr. Harmon on the ground and began emergency medical procedures; right?</p> <p>18 A. So I believe that those two do. I had not got rubber gloves to put in my pocket for that shift, so I actually had to go back to my car to get my rubber gloves to go back up, and then yes, I did.</p> <p>22 Q. Okay. Let's go -- let's go back to the seconds before you fired on Mr. Harmon. What did you say?</p> <p>25 A. I said I'll fucking shoot you.</p>
<p style="text-align: right;">Page 138</p> <p>1 turned, you saw a knife in his hand?</p> <p>2 A. Yes.</p> <p>3 Q. Are you certain?</p> <p>4 A. Hundred percent.</p> <p>5 Q. Could you be mistaken?</p> <p>6 A. Nope.</p> <p>7 Q. What color was the knife?</p> <p>8 A. I don't know what the color the handle was, but the blade was silver-grayish as a knife blade would be.</p> <p>11 Q. Okay. What did you do next?</p> <p>12 A. I shot him.</p> <p>13 Q. How many times?</p> <p>14 A. Three times.</p> <p>15 Q. Where were you aiming?</p> <p>16 A. So as his hand came back around and I was able to -- at one point I know, as my gun was coming up, I was covering just center mass as we're trained. I tracked where his pocket was and his hand wasn't in his pocket anymore.</p> <p>21 By the time I saw his hand, his hand had the knife in it, so I came back to my front sight post and, as far as I could tell, I was trying to aim center mass. That was -- that was, I think, my intent when I was aiming at him. But, yeah, like, with the black</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. And how soon after he said that did you fire your shot?</p> <p>3 A. Almost instantaneous I think.</p> <p>4 Q. Why didn't you give Mr. Harmon more time to surrender?</p> <p>6 A. He was turning back at me with a knife in his hand and he said he would stab me.</p> <p>8 Q. Did you intend "I'll fucking shoot you" to be an opportunity for him to surrender?</p> <p>10 A. I did not intend for it to be anything. I think it was more of a response to the "I'll fucking stab you," and I think that it was just something that through the split second it was happening hearing that, it was just, as I'm trying to perceive everything, just what came out.</p> <p>16 Q. After you said that, is there anything that Mr. Harmon could have done to prevent you from opening fire on him?</p> <p>19 MS. NICHOLS: Objection, calls for speculation.</p> <p>20 THE WITNESS: At that point probably not.</p> <p>21 Q. (BY MR. LUTZ) What was the lapse in time between when you say Mr. Harmon said I'll stab you?</p> <p>23 A. He said I'll fucking stab you.</p> <p>24 Q. Fucking stab you and you saying I'll fucking shoot you?</p>

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1 A. He said that and I think my
2 brain just immediately was like well, what the hell's
3 going on. So I think that happened. I don't know that
4 there was -- if you're able to measure that amount of
5 time, I don't know what that measurement is. So it's
6 so close that it was almost instantaneous after.

7 Q. Do you know where you hit Mr. Harmon?

8 A. I believe he was hit once in the hip, once in
9 the butt cheek, or buttocks somewhere, and I think once
10 in the arm.

11 Q. All three shots landed on his body?

12 A. I believe so.

13 Q. And you know now that Officer Smith's taser
14 probes also impacted Mr. Harmon?

15 A. After the fact, yes.

16 Q. Okay. You did not know that, but you know it
17 now?

18 A. I did not know then, yeah.

19 Q. You fire the shots, you stay essentially the
20 same position as where you shot from in those first
21 moments?

22 A. Yes.

23 Q. Officer Smith continues towards Mr. Harmon on
24 his left side, Officer Robinson then has gotten up on
25 your right side and is coming towards where

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1 something. I gave him an affirmative that I would do
2 whatever he was asking me to do or I was going to cover
3 him with my gun still, and then he -- I moved up first.
4 I'm not a hundred percent sure when Kris does.

5 Q. (BY MR. LUTZ) At this point in time you're
6 absolutely certain Mr. Harmon has a knife?

7 A. A hundred percent.

8 Q. But you didn't warn Officer Robinson about
9 that knife as he approached Mr. Harmon?

10 A. No.

11 Q. And Mr. Harmon is still alive at this point?

12 A. Yes.

13 Q. And you don't know where that knife is?

14 A. No.

15 Q. And you didn't see it fall out of his hand?

16 A. No.

17 Q. So Mr. Harmon very well was -- he was alive
18 and he very well could have been armed with that knife
19 as Officer Robinson approached?

20 MS. NICHOLS: Objection, calls for speculation.

21 THE WITNESS: Yes.

22 MR. LUTZ: Can we change these to just form
23 objections and if I want to fix the question, I will
24 ask Mr. Harmon. These are coaching.

25 MS. NICHOLS: These are just regular objections.

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1 Mr. Harmon's laying, correct, as you stayed in place?

2 A. Sorry. Say that again.

3 Q. In the seconds right after you fired the
4 shots --

5 A. Right.

6 Q. -- you stop moving?

7 A. Yeah.

8 Q. Officer Smith is on your left side and he
9 begins to approach Mr. Harmon. He says -- he says,
10 "Priority shots fired" on the radio and he starts
11 walking towards Mr. Harmon kind of where his feet are
12 and, at the same time, Officer Robinson is coming
13 around from your right side also towards Mr. Harmon?

14 MS. NICHOLS: Objection, compound.

15 THE WITNESS: So, genuinely, I don't remember a
16 hundred percent how far Kris moved forward once the
17 shots were fired. I do remember Scott being on this
18 side and him communicating to me, so I actually looked
19 at him (indicating). Kris's communication was
20 basically to the radio while it's to everybody that's
21 got radios, right? That's -- that was to everybody, so
22 I didn't necessarily focus on him.

23 I focused on Scott who, again, I don't
24 remember exactly what he said, but it was something to
25 the effect of I'll cuff him or I'll cover him or

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1 MR. LUTZ: Can we just object to form and then I
2 can clarify. It's a signal to him to have to rephrase
3 the question.

4 MS. NICHOLS: That -- I mean, if you think the
5 questions are objectionable, I'll switch to form, but I
6 think they're, you know, certainly objectionable.

7 MR. LUTZ: Thank you. Make your objection.

8 Q. (BY MR. LUTZ) Same time, Officer Robinson
9 approaches Mr. Harmon from the right, places the
10 handcuffs, you don't mention a knife to him. Right
11 around that same time period, or shortly thereafter,
12 Officer Smith approaches Mr. Harmon from your left
13 side; correct?

14 MS. NICHOLS: Objection as to form.

15 THE WITNESS: So, again, I don't -- I don't
16 remember a hundred percent as to when Kris actually
17 approached.

18 Q. (BY MR. LUTZ) Okay. But --

19 A. So I can definitely say yes to the part with
20 Scott. I'm not a hundred percent sure when Kris comes
21 up off the left side.

22 Q. But Officer Smith did approach Mr. Harmon on
23 the ground at some point?

24 A. Eventually. I think so, yeah.

25 Q. And you didn't warn Officer Smith about a

<p style="text-align: right;">Page 145</p> <p>1 knife?</p> <p>2 A. No. I think what -- no, I did not.</p> <p>3 Q. Okay. Why not?</p> <p>4 A. So I think everything had happened so fast</p> <p>5 that I was still trying to process what happened. As</p> <p>6 Kris was giving the communications and Scott said that,</p> <p>7 Patrick was, I believe, had fallen over and was almost</p> <p>8 completely face down, was not moving, his breathing was</p> <p>9 not normal, and so in that particular moment he was not</p> <p>10 a threat. He was not moving.</p> <p>11 It's definitely a tactical error on my part</p> <p>12 where I maybe should have said something, but other</p> <p>13 than it happened so quick, he seemed incapacitated, and</p> <p>14 I didn't see in the moment where there was any further</p> <p>15 danger to Scott. If there was I think I would have</p> <p>16 tried to stop him from moving up, but in that moment I</p> <p>17 didn't see that that was necessary.</p> <p>18 Q. And Officer Robinson didn't secure the knife</p> <p>19 either; right?</p> <p>20 A. I have no idea.</p> <p>21 Q. Okay. Let's do a hypothetical. Suppose he</p> <p>22 did. In your training and experience, would he have</p> <p>23 also been making a tactical error?</p> <p>24 MS. NICHOLS: Objection.</p> <p>25 THE WITNESS: So I think, and this is the problem</p>	<p style="text-align: right;">Page 147</p> <p>1 believe Kris was assisting with Patrick and that's what</p> <p>2 I went to do as well.</p> <p>3 Q. Okay. So both of them are there. Did you</p> <p>4 see the knife that you believe Mr. Harmon was holding?</p> <p>5 A. Not at that point, no.</p> <p>6 Q. Were you concerned about it being in the</p> <p>7 area?</p> <p>8 A. No.</p> <p>9 Q. And did you say at that point anything to</p> <p>10 either officer about a knife?</p> <p>11 A. No.</p> <p>12 Q. Okay. With respect -- once you arrived back</p> <p>13 at the scene and back at Mr. Harmon, what did you do</p> <p>14 next?</p> <p>15 A. I want to say he might have still been face</p> <p>16 down. I immediately started thinking if there was</p> <p>17 somewhere we could do a tourniquet. You know, with any</p> <p>18 mass hemorrhaging, that's one of the first things you</p> <p>19 want to try to control is massive bleeding, so I</p> <p>20 started to kind of ask like, okay, have we figured that</p> <p>21 out. You know what I mean? And that was -- that was</p> <p>22 my number one concern at the time.</p> <p>23 Q. Okay. Did you cut Mr. Harmon's clothing off?</p> <p>24 A. I started to, yeah.</p> <p>25 Q. And at some point in this interaction another</p>
<p style="text-align: right;">Page 146</p> <p>1 with hypotheticals, right, it's how far we gonna</p> <p>2 hypothetical. If there was the opportunity for him to</p> <p>3 secure a knife while we're dealing with somebody who is</p> <p>4 still combative, yes, that's a tactical error.</p> <p>5 Somebody who's compliant, somebody who has just been</p> <p>6 shot, somebody who is no longer a threat and has been</p> <p>7 incapacitated, no.</p> <p>8 I think the priority changes from if we can</p> <p>9 get him into handcuffs quickly, then we can start life</p> <p>10 safety treatment. At that point securing the knife, if</p> <p>11 he's incapacitated and compliant, then that's just</p> <p>12 prolonging, even by seconds, the opportunity to start</p> <p>13 the life-saving measures. So, no, I don't think that</p> <p>14 would be a tactical error.</p> <p>15 Q. (BY MR. LJUTZ) Okay. So you went back to your</p> <p>16 patrol car?</p> <p>17 A. Yes.</p> <p>18 Q. And retrieved gloves; correct?</p> <p>19 A. Yes.</p> <p>20 Q. Like black latex gloves?</p> <p>21 A. Yes.</p> <p>22 Q. What did you do once you retrieved your</p> <p>23 gloves?</p> <p>24 A. I re-approached where Patrick was so that I</p> <p>25 could also help with the aid that at this point now I</p>	<p style="text-align: right;">Page 148</p> <p>1 officer arrives; is that right?</p> <p>2 A. Yes. All sorts of people were showing up.</p> <p>3 Q. Who was that? Who was the first one there?</p> <p>4 A. I don't have -- I don't have any idea.</p> <p>5 Q. About how much time passes before you are, I</p> <p>6 guess, relieved from the scene?</p> <p>7 A. Relieved from the treatment I was giving</p> <p>8 Patrick?</p> <p>9 Q. Yeah.</p> <p>10 A. I mean, I didn't get all the way through the</p> <p>11 pants. I cut through the belt, top of the pants, as I</p> <p>12 was trying to get them off so that we could actually</p> <p>13 continue the evaluation. At some point I was pulled</p> <p>14 off to be isolated.</p> <p>15 Q. Okay. And as you say to be isolated, is that</p> <p>16 part of protocol when there's an officer involved</p> <p>17 shooting?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. To isolate the officer whose fired?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Was Mr. Harmon wearing gloves at any</p> <p>22 point during this incident?</p> <p>23 A. I don't know.</p> <p>24 Q. So after you saw the knife in Mr. Harmon's</p> <p>25 hand before you shot, you never saw it again?</p>

	Page 149		Page 151
1	A. No.		
2	Q. Okay. Let's go through this a little bit		1 Q. Is that also part of protocol?
3	more. Okay. So you're pulled off to be isolated by		2 A. I believe so. I don't know if it's written
4	another officer who arrives at the scene; right? Not		3 in protocol, but it should be if it's not.
5	Officer Smith or Officer Robinson; right?		4 Q. Did you know Sergeant Sweeny well at that
6	A. Was I pulled off or were they pulled off?		5 time?
7	Q. You were pulled off; right?		6 A. We have been on SWAT together, so I knew him.
8	A. Yes.		7 I can't say that I would know him well, no.
9	Q. Okay. To be isolated?		8 Q. Okay. Was he also a friend?
10	A. Yes.		9 A. Work friend. Like I said, I didn't know him.
11	Q. What did you do?		10 Q. What did you guys talk about on your way to
12	A. So I ended up walking back towards my car. I		11 the station?
13	had my knife which I put somewhere on the hood of my		12 A. I asked him if it would be appropriate to
14	car, took my gloves off. I think I just went and sat		13 call my wife.
15	on a rock, yeah.		14 Q. How did he respond?
16	Q. Your body camera is still running all the way		15 A. He said that we'll cross that bridge when we
17	up until when you went and sat on the rock; right?		16 get to it and he would try to let me know as soon as he
18	A. I believe.		17 thought it would be an appropriate time.
19	Q. Okay. And then what happened after you sat		18 Q. So you weren't able to call her on the way
20	down?		19 back to the station?
21	A. Nothing. I was eventually taken to the		20 A. I don't think he would have stopped me, but
22	police department.		21 he was making suggestions and I think I listened to
23	Q. Do you remember who came up and talked to you		22 them.
24	while you were sitting on the rock?		23 Q. Sure. What happened when you got back to the
25	A. I think at some point I think Scott and Kris		24 PSB?
			25 A. I was put into an office. I was allowed to
	Page 150		Page 152
1	did. I know there was somebody in a yellow shirt. No		1 contact an attorney. I spoke to my attorney who asked
2	idea who it was. There may have even been another		2 me --
3	person there that I don't know who it was, but I think		3 MS. NICHOLS: Oh. I'm going to --
4	at some point, as officers responded to replace me,		4 THE WITNESS: Sorry.
5	Kris and Scott, we all got isolated.		5 MS. NICHOLS: -- direct you not to discuss
6	Q. Okay. And did you have any conversations		6 anything --
7	with any of these folks who approached you --		7 THE WITNESS: Yeah.
8	A. No.		8 MR. LUTZ: -- we talked about on this.
9	Q. -- while you were sitting?		9 MS. NICHOLS: Sorry.
10	A. They asked me if I was okay and I just said		10 Spoke to my attorney and I was put into a
11	yes.		11 conference room, waited in the conference room until
12	Q. But you didn't discuss the circumstance?		12 detectives and chiefs and deputy chiefs and other
13	A. No.		13 people showed up.
14	Q. And eventually were you -- somebody came and		14 Q. (BY MR. LUTZ) Okay. Which attorney did you
15	escorted you out of the scene?		15 contact?
16	A. Yes.		16 A. Rebecca Skordas was the attorney who helped
17	Q. Who was that?		17 me.
18	A. At the time he was a sergeant. He's a		18 Q. Okay. And at that time, was she employed
19	lieutenant now. It was Alma Sweeney.		19 like counsel for the police unit?
20	Q. Okay. So you went with Sergeant Sweeney?		20 A. I think so. I think that's why she ended up
21	A. Yes.		21 getting contacted is because I was a member of the
22	Q. Where did you go?		22 union and I was giving her information to contact, so.
23	A. Straight back to the police department.		23 Q. It's not your personal attorney?
24	Q. Okay. Sergeant Sweeney's driving?		24 A. No.
25	A. Yes.		25 Q. Okay. How did you get her number?

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1 A. I think it was furnished to me -- sorry.
2 It's Lieutenant now, but Sergeant Sweeny at the time.
3 Q. Did he hand you a card or something?
4 A. Wrote it down on a piece of paper probably.
5 I honestly don't know.
6 Q. Did Sergeant Sweeny tell you to call an attorney?
7 A. I think he asked me if I wanted to. He asked me if I wanted to and I was like yeah, I do.
8 Q. Okay.
9 A. So.
10 Q. Okay. And then you were placed in a conference room, so you had this conversation with your attorney first?
11 A. Yes.
12 Q. And then these other folks come into the conference room to talk with you?
13 A. Yes.
14 Q. Who's all there?
15 A. A lot of people came in and out. I can't even -- I believe deputy chiefs, I think -- honestly, I have no idea if Chief Brown even showed up. I want to say -- who was it that was the deputy chief that just left. Dowdt. I think Dowdt was there.
16 Q. How do you spell that?

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1 A. D-o-w-d-t. I think that may not even be accurate, but he was there. I think there was a captain that was there. I think a guy who's now a deputy chief who at the time I think was just a captain was Van Dongen. I think he was there. A handful of other people in and out of the office, or the conference, to check see if I needed water, whatever.
2 Q. Okay. Did anyone ask you to make a statement at that time?
3 A. Not at that time, no.
4 Q. When was the first time somebody asked you to make a statement?
5 A. When the UPD detectives were questioning me.
6 Q. When was that?
7 A. So, I mean, I have no idea what the frame of time was from when I got to the PSB to them actually arriving. So whatever -- however that time frame was, they took me down to an interview room. I think that's where all the questions happened.
8 Q. Is that like days later?
9 A. No. This is the same night.
10 Q. Did you answer questions?
11 A. I think I -- they asked me I believe -- I don't even know if it was UPD that asked me, but I think I was asked how many times I fired. I can't

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1 remember. There might have been one other question that was asked. If there was anything else outstanding or something.
2 There's like some basic questions that our police department goes through and that's why I'm not sure if it was our guys was asking that or it was the UPD guys. They asked if I wanted to make a statement and I told them not until later. But I was asked how many times I fired and I think one other question I don't remember.
3 Q. So you answered a couple basic questions, but declined to make a statement?
4 A. Yes.
5 Q. Why didn't you want to make a statement?
6 A. I wanted to talk with my attorney first.
7 Q. Let's just continue on this line. Did you watch your body cam footage before you made a statement?
8 A. I believe I did, yeah.
9 Q. With your attorney?
10 A. Yes.
11 Q. Is that standard protocol?
12 A. Yes.
13 Q. Really?
14 A. Yes.

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1 (Exhibit 13 marked.)
2 Q. (BY MR. LUTZ) Okay. So I assume you've never seen this before. Or you may have as part of your job, but have you?
3 A. No.
4 Q. So this is a -- it reads to me as an investigator followup by Investigator Bench, Zach Bench, from August 22nd, 2017, so more than a week after the OIS with Mr. Harmon.
5 A. Yes.
6 Q. It reads "On Friday, August 18, 2017, Detective Brown and I responded to the Law Office of Rebecca Skordas who is representing Officer Fox. We showed Officer Fox and Rebecca a portion of his body cam footage from the incident. I did not leave a copy, nor did I show Officer Fox or Rebecca any other officers' body camera footage from that evening. On August 22nd, 2017, I met with Officer Fox and Rebecca at the sheriff's office building to obtain a statement from Officer Fox. The interview was audio recorded. Please refer to the transcript for further. Detective Brownlee and Investigator Kotrodimos were also present."
7 So in that first paragraph, Investigator Bench describes that he -- that on August 18th he met

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<p>1 if you have like a weapon tucked into a waistband or 2 somewhere else, right, you have your t-shirt over the 3 side, then you take one hand, clear the t-shirt, and it 4 gives you free access to whatever you're trying to go 5 to, and that would be what would be a concealed draw 6 (indicating).</p> <p>7 Q. Drawing a concealed weapon?</p> <p>8 A. Yeah.</p> <p>9 Q. Yeah, okay. Let's go briefly back to the 10 13th, August 13, 2017, after you were taken back to the 11 PSB. Did somebody -- I know you said you answered a 12 few questions. Did somebody else though take 13 possession of your gun?</p> <p>14 A. Yes.</p> <p>15 Q. And your body camera?</p> <p>16 A. Yes.</p> <p>17 Q. And then any other equipment?</p> <p>18 A. Yes.</p> <p>19 Q. Did they take your whole duty belt?</p> <p>20 A. No.</p> <p>21 Q. Did they take your taser?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Anything else you can remember?</p> <p>24 A. My two magazines were in my mag holsters.</p> <p>25 Q. Okay. And did somebody come and take</p>	<p>1 A. S-a-u-r-e-s I think. 2 Q. And what's his position or what was it? 3 A. I think he was just there to babysit me for 4 lack of better words. 5 Q. You don't know who the gentleman in the -- 6 A. I don't. 7 Q. -- who's not in uniform is? 8 A. I don't. 9 Q. Did you have any discussions with those 10 gentlemen while you were in the PSB? 11 A. Nope. 12 Q. So this is obviously before they took your 13 equipment -- 14 A. Yeah. 15 Q. -- for processing? 16 A. Right. 17 Q. Under your uniform here, are you wearing some 18 sort of body armor? 19 A. What do you mean? Like -- so I'm wearing a 20 vest carrier, so the underpart is what's actually 21 holding my body armor right there (indicating). 22 Q. Which? 23 A. So do you see this line that's right here? 24 That's the bottom edge of my vest. My vest just looks 25 like a shirt that is worn on that. It's an external</p>
Page 162	Page 164
<p>1 pictures of you?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Who was that? Do you recall who that 4 was?</p> <p>5 A. I do not.</p> <p>6 (Exhibit 14 marked.)</p> <p>7 Q. (BY MR. LUTZ) Okay. So you've just been 8 handed what's been marked as Exhibit 14. Do you 9 recognize the person in this photograph?</p> <p>10 A. I do.</p> <p>11 Q. Who is it?</p> <p>12 A. That is me.</p> <p>13 Q. So this is -- is this a photograph of you at 14 the PSB following your interaction with Mr. Harmon on 15 the 13th of August 2017?</p> <p>16 A. Yes, it is.</p> <p>17 Q. Okay. Who are the two gentleman behind you 18 through the window?</p> <p>19 A. I believe that's a reflection in a piece of 20 glass that's there and the gentleman in the Salt Lake 21 City uniform I believe is Pete Saures and I have no 22 idea who the other guy is.</p> <p>23 Q. Pete Saures?</p> <p>24 A. Yeah.</p> <p>25 Q. S-o-w-e-r-s?</p>	<p>1 vest carrier. 2 Q. Oh, I see. I gotcha. 3 A. So that bit that you see down there is just a 4 regular t-shirt that's actually under and you can see 5 where my collar pops out through the neck hole. 6 Q. Well designed. And that's your body camera 7 up there on what is your left shoulder of the lens? 8 A. Yeah, which obviously, now looking at it, 9 there's actually a secondary clip, so I didn't have the 10 horseshoe on which is one that I used to wear. There 11 was one that -- I actually forgot that I used to have 12 this vest. I have a completely different one now. 13 But that actually just clips up to the lapel 14 of the vest and then just can sit right there. So it's 15 basically one inch over from the questions that you 16 were asking me earlier just to clarify. 17 Q. Okay. So it's lapel rather than collar here; 18 is that right? Am I understanding that right? 19 A. The anatomy from the shirt is from the 20 shoulder to here (indicating). That is the lapel; 21 right? Or what is that? 22 Q. Well, on your uniform you have that strap -- 23 A. Yes. 24 Q. -- on the shoulder? 25 A. And then the lapel.</p>

<p style="text-align: right;">Page 165</p> <p>1 Q. That's the lapel; right? 2 A. If we can agree that that's the lapel, that 3 is where that is. It's a piece of plastic attached to 4 my -- I have no idea what they call that piece -- 5 Q. That will do fine for -- 6 A. -- on the shirt. I don't know. Okay. 7 Q. What is the vest made of? 8 MS. NICHOLS: Objection. 9 THE WITNESS: Which? 10 Q. (BY MR. LUTZ) Do you know what the vest is 11 made of? 12 A. Which vest? 13 Q. Your exterior vest on the outside of your 14 shirt. 15 A. I have no idea. 16 Q. Is it body armor? 17 MS. NICHOLS: Objection. 18 THE WITNESS: Like -- okay. So that's a vest 19 carrier, so there's a carrier that has the body armor 20 in it. 21 Q. (BY MR. LUTZ) Okay. Is there body armor in 22 this carrier? 23 A. Yes. 24 Q. Okay. At the time? 25 A. Yes.</p>	<p style="text-align: right;">Page 167</p> <p>1 the back and the back is going to almost mirror the 2 front, just have a different collar area, and that 3 rises maybe just a little bit more evenly across the 4 back of your neck if that makes sense. 5 Q. Okay. And is there protection for your 6 backside too? 7 A. Yes. 8 Q. In, roughly, the same dimensions, just on 9 your back instead of your front torso? 10 A. Roughly, yes. 11 Q. Okay. What about under your arms? 12 A. Yes. That's where the panels should overlap. 13 Q. Okay. 14 (Exhibit 15 marked.) 15 Q. (BY MR. LUTZ) Okay. Do you recognize the 16 person in that image 15? 17 A. Yes. 18 Q. And who is that? 19 A. Me again. 20 Q. Just the back angle of you? 21 A. Yes, sir. 22 Q. So you can also see the vest carrier on your 23 backside here? 24 A. Yes. 25 Q. Okay. That's all for that. I've give you</p>
<p style="text-align: right;">Page 166</p> <p>1 Q. What kind of body armor? 2 MS. NICHOLS: Objection. 3 THE WITNESS: I have no idea. Like brand name or 4 what do you mean? 5 Q. (BY MR. LUTZ) Let's break it down more. So 6 for a layperson like me, I don't understand anything 7 about this. Are you wearing a bulletproof vest? 8 A. Yes. 9 Q. Okay. 10 A. Sorry. 11 Q. Okay. And was that a standard part of your 12 patrol uniform at that time? 13 A. Yes. 14 Q. Okay. So you always went out with the 15 bulletproof vest on? 16 A. Yes. 17 Q. What area does it protect on your anatomy? 18 A. So you're going to have a portion that comes 19 up and it basically -- it has like a little, you know, 20 cutout collar so that it doesn't ride too high. So 21 it's going to cover from what should just be almost 22 your collarbones to either just above or below your 23 bellybutton-ish. 24 The panel should wrap around and a proper 25 fitting vest should actually overlap with the panels in</p>	<p style="text-align: right;">Page 168</p> <p>1 one more. 2 (Exhibit 16 marked.) 3 Q. (BY MR. LUTZ) Do you recognize the person in 4 this photo? 5 A. Yes, I do. 6 Q. Who's that? 7 A. That is Officer Kris Smith. 8 Q. And that is from the night of August 13th, 9 2017? 10 MS. NICHOLS: Objection. 11 Q. (BY MR. LUTZ) At the PSB? 12 A. I can assume so, yeah. 13 Q. Okay. And, obviously, you didn't take this 14 picture. Do you see Officer Smith also wearing the 15 vest carrier? 16 A. Yes, sir. 17 Q. Okay. Okay. We can put that aside. 18 (Exhibit 17 marked.) 19 Q. (BY MR. LUTZ) Okay. Taking a look at Exhibit 20 17 there, do you recognize what's in this picture? 21 A. Yes, I do. 22 Q. What is it? 23 A. That is, I believe, an X26 taser. 24 Q. Is that the same model that you were carrying 25 in August of 2017 while you were out on patrol?</p>

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1	A. I believe it is.	1	A. Yes.
2	Q. Okay. Do you believe this one is yours?	2	Q. So at the time that you fired, what do you
3	MS. NICHOLS: Objection.	3	estimate that distance to be?
4	THE WITNESS: Probably.	4	A. Six feet, seven at most.
5	Q. (BY MR. LUTZ) The one that you were carrying	5	Q. You also mentioned in that statement that you
6	on August 17, 2017?	6	like to be in control of, I'm going to paraphrase
7	A. It's labeled as such, but there's no way --	7	badly, but that you like to be in control of the
8	honestly, without reading the serial number, you can't	8	choices that you're going to make and something about
9	tell a hundred percent if that's it or not.	9	that situation limited your ability to decide what to
10	Q. Sure. Can you tell whether it's been	10	do; right?
11	deployed just from looking at it?	11	MS. NICHOLS: Objection.
12	A. I think so. So with my limited knowledge, I	12	THE WITNESS: Yeah, I mean, I understand the part
13	believe I could look at that and say that that has not	13	that you're driving at, yes.
14	been deployed.	14	Q. (BY MR. LUTZ) Is what you're referring to
15	Q. How can you tell?	15	there that the situation involved such that the only
16	A. So typically -- so the green parts that you	16	thing that you could do at a certain moment was fire
17	can see should be the door panels that are on the front	17	your gun?
18	end of the cartridge, those will actually blow off, and	18	MS. NICHOLS: Objection.
19	so the fact that those -- I mean, not looking at the	19	THE WITNESS: Sorry. Say the question one more
20	front, that's one thing that could be wrong is they	20	time.
21	could, I guess, break off right there, but then also	21	Q. (BY MR. LUTZ) I just need your testimony just
22	just where the circle is there is where the wire is	22	to clarify it. Let's just go back and break it down
23	coiled around there.	23	more fundamentally.
24	So, again, I mean, it's not necessarily --	24	How far away were you from Mr. Harmon when
25	I'm not good enough to say 100 percent, but I would	25	you drew your gun?
	Page 170		Page 172
1	look at that and say well, if the coils still look like	1	A. So when I originally drew my gun, probably
2	they're wrapped up and that panel hasn't blown off,	2	only two to three feet.
3	then that's probably not been used.	3	Q. What do you mean originally?
4	Q. Okay. Thank you. You can put that aside.	4	A. Sorry. That's probably bad words. When I
5	A. (Complies.)	5	drew my gun, I was probably two to three feet.
6	Q. Oh. One more. This is exhibit -- do you	6	Q. At that distance once your gun is drawn, if
7	recognize the person in Exhibit 6?	7	he's going to come back at you, is your only option to
8	A. I do.	8	use your firearm?
9	Q. Who's that?	9	MS. NICHOLS: Objection.
10	A. That is Officer Scott Robinson.	10	THE WITNESS: I think I could probably let him
11	Q. And is he also wearing the plate carrier that	11	stab me first.
12	we talked about earlier?	12	Q. (BY MR. LUTZ) So you would say that's the
13	MS. NICHOLS: Objection.	13	only option?
14	Q. (BY MR. LUTZ) Can you tell?	14	A. Probably the only option to defend myself to
15	A. It does not look like he is, but I can't	15	stop him from stabbing me, yes.
16	tell. He might have his body armor -- so some of them	16	Q. Is there ever a situation where -- is there a
17	wear it under their shirts still.	17	distance between you and a potential suspect that is
18	Q. Okay. That's good.	18	too close for it to be appropriate for you to draw your
19	You mentioned in the interview that we	19	firearm?
20	listened to earlier that one of -- and I'm	20	MS. NICHOLS: Objection.
21	paraphrasing, so obviously if I say something	21	THE WITNESS: So like if he was so close that I
22	incorrectly, let me know. But you basically indicated	22	couldn't? No, there's never a moment that would be
23	that one of your main concerns about the dangers that	23	inappropriate.
24	was posed by Mr. Harmon was the distance between you at	24	MR. LUTZ: Okay.
25	a certain point in time. Is that right?	25	THE WITNESS: Like, again, it would be the

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1 totality of the situation; right? Hypotheticals is a
 2 dangerous world because you can give reasons why it
 3 would be or reasons why it would not be appropriate,
 4 but in my opinion, if you were to just generalize it,
 5 no, there's never a time it's too close.

6 Q. (BY MR. LUTZ) You can fire your weapon from
 7 any distance, basically?

8 A. Yeah. Potentially, yes.

9 Q. Or potentially from a very close range?

10 A. Yes.

11 Q. Earlier we talked about how at the moment
 12 that you told Mr. Harmon I'll fucking shoot you, I
 13 believe you said that there was probably nothing that
 14 he could have done to avoid being shot at that point.

15 MS. NICHOLS: Objection.

16 Q. (BY MR. LUTZ) Is that right?

17 A. Yeah, I mean, that's probably accurate.

18 Q. Does that have something to do with the fact
 19 that you already have your gun in your hand and the
 20 quickest way you can react to anything he does is fire
 21 the gun?

22 MS. NICHOLS: Objection.

23 THE WITNESS: No.

24 Q. (BY MR. LUTZ) Can you say why?

25 A. If he had continued to run away, I could have

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1 done something different.

2 Q. I see. That's a little bit different than
 3 what you said before about that particular moment.

4 MS. NICHOLS: Is there a question?

5 THE WITNESS: What do you mean?

6 Q. (BY MR. LUTZ) Well, I'll reask the question
 7 from before. At the moment that you told Mr. Harmon
 8 I'll fucking shoot you, was there something that -- is
 9 there a way that he could have responded that would
 10 have resulted in you not shooting him?

11 MS. NICHOLS: Objection, asked and answered.

12 THE WITNESS: In that moment, no.

13 MR. LUTZ: Okay.

14 MS. NICHOLS: Mr. Lutz, we've been going about an
 15 hour 50. Could we take a break soon?

16 MR. LUTZ: Yeah.

17 MS. NICHOLS: Would that be all right? Okay.

18 (Recess taken from 2:25 p.m. to 2:40 p.m.)

19 Q. (BY MR. LUTZ) Okay. Officer Fox, so at this
 20 point in time you've seen the body camera footage of
 21 Officer Smith; correct?

22 A. Like as of right now?

23 Q. Yeah.

24 A. Yes.

25 Q. And you've also seen Officer Robinson?

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1 A. Yes, but I am not sure that I've seen the
 2 totality of either of their videos.

3 Q. Okay.

4 A. As a whole.

5 Q. Okay. At what point were you made aware that
 6 your shooting with Mr. Harmon was being investigated by
 7 the Internal Affairs Unit?

8 MS. NICHOLS: Objection.

9 THE WITNESS: I don't know if I was ever notified
 10 that it was being investigated. I think it was just
 11 assumed they would do it on every case I think.

12 Q. (BY MR. LUTZ) Okay. So from your
 13 understanding, what was happening in terms of the
 14 internal investigation was just standard protocol for
 15 any officer involved shooting?

16 A. Yeah.

17 Q. Okay. At what point were you made aware of
 18 the results of the internal investigation involving you
 19 and the shooting with Mr. Harmon?

20 A. I don't even know. Like, I don't know. I
 21 don't remember.

22 Q. Did you ever read the report that the
 23 Internal Affairs Unit issued?

24 MS. NICHOLS: Objection.

25 THE WITNESS: I don't know that it -- no. No. I

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1 don't remember doing so if I did, but I don't believe I
 2 did.

3 Q. (BY MR. LUTZ) While the investigation was
 4 pending, the internal investigation, were you worried
 5 about it?

6 A. About what?

7 Q. About what the potential result could be.

8 A. Yes.

9 Q. Who were you worried about?

10 A. Everything.

11 Q. Potential discipline?

12 A. Sure.

13 Q. Your career?

14 A. Yes.

15 Q. Anything else?

16 A. Yeah, I mean, everything. There's no way for
 17 me to explain how worried I was about everything that
 18 could potentially come with that.

19 Q. But you don't remember the result coming
 20 down?

21 A. I mean, no. No.

22 Q. I just ask because it must have been a
 23 relief.

24 A. So I remember where I was when I found out
 25 that the DA had cleared it.

	Page 177	Page 179
1	<p>Q. Okay.</p> <p>A. As far as IA, I don't remember.</p> <p>Q. Okay. Because the DA's decision came down first?</p> <p>A. I believe so.</p> <p>Q. That makes sense. So were you also -- well, when were you made aware that the district attorney was looking at the incident?</p> <p>A. I don't think I was made aware that he was. I think, again, just standard procedure.</p> <p>Q. For all officer involved shootings?</p> <p>A. I believe so.</p> <p>Q. Did you know that Officer Robinson was involved in some officer involved shootings?</p> <p>MS. NICHOLS: Objection.</p> <p>THE WITNESS: I know of one other that he was involved in.</p> <p>Q. (BY MR. LUTZ) Do you know if the DA investigated Officer Robinson?</p> <p>A. I can't think of a single one he hasn't investigated, so.</p> <p>Q. Okay. So your understanding is that's procedure?</p> <p>A. I thought so.</p> <p>Q. In every instance?</p>	<p>1 time, Captain Purvis.</p> <p>2 MR. LUTZ: Okay.</p> <p>3 THE WITNESS: I don't think that concluded anything with regards to anything else. I don't know.</p> <p>5 Q. (BY MR. LUTZ) Can we briefly flip to the next page --</p> <p>7 A. Sure.</p> <p>8 Q. -- SLCC 366. Have you ever seen this before?</p> <p>9 A. I have not.</p> <p>10 Q. Okay. Can you flip to the next page.</p> <p>11 A. (Complies.)</p> <p>12 Q. Does any of that look familiar?</p> <p>13 A. Nope.</p> <p>14 Q. Okay. You can put it aside.</p> <p>15 A. (Complies.)</p> <p>16 Q. Did you ever request from anyone in the department to review any of the IA investigation materials?</p> <p>19 A. No.</p> <p>20 Q. Were you ever curious about what was in them?</p> <p>21 A. No.</p> <p>22 Q. Did you ever read any of the investigation materials from the district attorney's office?</p> <p>24 MS. NICHOLS: Objection.</p> <p>25 THE WITNESS: No.</p>
1	<p>A. I thought so.</p> <p>(Exhibit 18 marked.)</p> <p>Q. (BY MR. LUTZ) Okay. Have you -- you've just been handed what's been marked as Exhibit 18. Have you ever seen this before?</p> <p>A. Not that I can recall.</p> <p>Q. What does it appear to be?</p> <p>MS. NICHOLS: Objection.</p> <p>THE WITNESS: It says it's a Complaint Disposition Form.</p> <p>Q. (BY MR. LUTZ) And do you see the allegation reads "Officer use of deadly force." Finding reads "In-Policy" and follows "The actions of the subject officer were reasonable, appropriate, did not violate police department policy."</p> <p>See that?</p> <p>A. Yes.</p> <p>Q. Knowing that, is this a document -- is this document the fact that the IA complaint was concluded and they determined that you did not violate policy in your shooting of Patrick Harmon?</p> <p>MS. NICHOLS: Objection.</p> <p>THE WITNESS: I don't know that this concludes any of it. I mean, I just see that it says what the finding is and then it's signed by one of the, at the</p>	<p>Page 180</p> <p>1 Q. (BY MR. LUTZ) Did you ever read the district attorney's determination letter exonerating you?</p> <p>3 A. Yes. Parts of it. Not front to back, but parts of it.</p> <p>5 (Exhibit 19 marked.)</p> <p>6 Q. (BY MR. LUTZ) Okay. You've been handed what's been marked Exhibit 19. Take a look at that, please.</p> <p>9 A. (Complies.)</p> <p>10 Q. Do you recognize this document?</p> <p>11 A. Sort of. I mean, it just looks like a standard memo thing that they would issue out.</p> <p>13 Q. Who is it addressed to?</p> <p>14 A. Me.</p> <p>15 Q. But you don't remember ever reading this?</p> <p>16 A. (Peruses document.)</p> <p>17 I don't remember ever reading it, no.</p> <p>18 Q. Okay. You can put that aside.</p> <p>19 A. (Complies.)</p> <p>20 (Exhibit 20 marked.)</p> <p>21 Q. (BY MR. LUTZ) Okay. So you've just been handed what's marked as Exhibit 20. Just take a minute to look at that.</p> <p>24 A. (Complies.)</p> <p>25 Q. Do you recognize this document?</p>

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1	<p>A. No.</p> <p>Q. Do you believe that you've ever come across this in your training or anything like that?</p> <p>A. No.</p> <p>Q. Okay. You can put it aside.</p> <p>A. (Complies.)</p> <p>Q. Going back to your testimony from a few minutes ago regarding the knife that you believe was in Mr. Harmon's possession, I believe you said that after you had shot Mr. Harmon, you didn't see the knife again on the scene. Is that right?</p> <p>A. Yes.</p> <p>Q. Okay. Do you believe you've seen photos of it later after the shooting?</p> <p>A. I mean, I know that I have. Yeah.</p> <p>Q. Do you recall in what context you've seen those?</p> <p>A. I don't.</p> <p>Q. Did an investigator ask you about, like show you a photo of it and ask you about it?</p> <p>A. No. I don't remember. I don't think so.</p> <p>Q. Could it have been in the DA's clearance letter?</p> <p>A. It could have. I don't remember.</p> <p>Q. You never had a copy or like a photo of the</p>	<p>A. Is this Kris's?</p> <p>(Video played.)</p> <p>MR. LUTZ: Just pause that.</p> <p>THE WITNESS: I'm going to move this. I can't see the timestamp.</p> <p>MS. NICHOLS: That's okay.</p> <p>MR. LUTZ: So pause this at 54 seconds. We will enter this as Exhibit, so pause it 54 seconds, Exhibit 21.</p> <p>(Exhibit 21 marked.)</p> <p>Q. (BY MR. LUTZ) Do you recognize this video now?</p> <p>A. Yes.</p> <p>Q. What is it?</p> <p>A. I believe it's my body cam footage.</p> <p>Q. And so far does this appear to be a fair and accurate representation of your body cam footage from October 2017?</p> <p>A. I believe so.</p> <p>Q. Okay. I'm going to play this through once and then go back.</p> <p>A. (Nods head.)</p> <p>(Video played.)</p> <p>Q. (BY MR. LUTZ) Okay. Have you seen all of that exhibit before?</p>
1	<p>knife in your own possession, did you?</p> <p>A. No.</p> <p>Q. And you don't recall whether or not you reviewed the DA's determination letter?</p> <p>MS. NICHOLS: Objection.</p> <p>THE WITNESS: The determination letter?</p> <p>MR. LUTZ: (Nods head.)</p> <p>THE WITNESS: So that's the one I think I had reviewed most of it.</p> <p>MR. LUTZ: Okay.</p> <p>MR. RILEY: So I don't show that the video's were Bates-stamped, the ones that you guys attached to your Motion to Dismiss.</p> <p>MS. NICHOLS: I think the Bates-stamped videos should be in our most recent production was my understanding.</p> <p>MR. RILEY: They are.</p> <p>MR. LUTZ: We also gave you Bates-stamped versions.</p> <p>(Pause in the proceedings.)</p> <p>Q. (BY MR. LUTZ) Okay. For the record, the video that I just pulled up is Bates-stamped HARMON24. Just from the screen shot that's pulled up right there at one second, do you recognize this video? I can play it more. I just --</p>	<p>A. Yes.</p> <p>Q. Have you seen any longer version of it?</p> <p>A. I think that's it.</p> <p>Q. Okay. So we're at 9 seconds here. There's no audio. Is that because there's a delay in when you hit record and when it starts recording audio on your body cam?</p> <p>A. I believe so.</p> <p>(Video played.)</p> <p>MR. LUTZ: Pause it for a second here.</p> <p>Q. (BY MR. LUTZ) This is Mr. Harmon directly in front of you; correct?</p> <p>A. Yes.</p> <p>(Video played.)</p> <p>MR. LUTZ: Pause it there, 32 seconds.</p> <p>Q. (BY MR. LUTZ) The audio seems that it came on at 30 seconds. Would that be the normal amount of time for that audio to start?</p> <p>A. Yes.</p> <p>(Video played.)</p> <p>Q. (BY MR. LUTZ) We paused it at 36 seconds. Do you recognize who just said, "Patrick, you already know about your warrant; right?"</p> <p>A. Yes.</p> <p>Q. Who was that?</p>

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1	A. Officer Scott Robinson.	1 Q. (BY MR. LUTZ) Okay. I'm pausing it at 244.
2	(Video played.)	2 At this point have you seen a knife anywhere in this
3	MR. LUTZ: Pause it at 45 seconds.	3 footage? Let me rephrase that.
4	Q. (BY MR. LUTZ) On the right side of the frame,	4 Paused at 244, since you opened fired on
5	who is that?	5 Mr. Harmon, do you see a knife anywhere in the video?
6	A. That's Officer Robinson.	6 A. In this frame right here?
7	(Video played.)	7 Q. In any of the frames that we watched so far.
8	MR. LUTZ: Pause it at 48 seconds.	8 A. I believe, if you go back as Officer
9	Q. (BY MR. LUTZ) Looks like there's an arm	9 Robinson's approaching, there's something in the grass
10	reaching across touching Mr. Harmon's arm. Whose arm	10 that is, I believe, a knife.
11	is that?	11 Q. Okay. We can go back.
12	A. I believe it to be Officer Smith's.	12 (Video played.)
13	Q. Okay.	13 Q. (BY MR. LUTZ) Pausing right there at 3
14	(Video played.)	14 minutes 6 seconds. Was that just you using your knife
15	MR. LUTZ: Pause at 103.	15 to cut some of Mr. Harmon's clothing?
16	Q. (BY MR. LUTZ) At this point do you believe	16 A. Yes.
17	you had drawn your gun?	17 (Video played.)
18	MS. NICHOLS: Objection.	18 Q. (BY MR. LUTZ) Pausing at 314. There's now
19	THE WITNESS: Is there any way I could watch it	19 another person here. Do you know who this is on the
20	again up to this point?	20 right side of the screen?
21	MR. LUTZ: Sure. Actually, why don't I go back	21 A. I think that that's Sergeant Sweeny, but I'm
22	to -- tell me -- I'll let it play forward. Tell me, if	22 not a hundred, like, not sure.
23	you can, at what point you believe you drew your gun	23 Q. Okay. And we can't really see from that
24	while we're watching.	24 angle?
25	MS. NICHOLS: Objection.	25 A. From his voice it sounds like him, and I know
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1	(Video played.)	1 that he was there super early. So if the person that's
2	THE WITNESS: I wouldn't be able to tell you when	2 on screen is the one that's talking, then that's
3	I drew my gun.	3 Sergeant Sweeny, or now Lieutenant, but I feel weird
4	MR. LUTZ: Okay. Let's play through one more	4 calling him by the wrong rank, but yeah.
5	time. Just a couple more questions. Pause along the	5 Q. Okay.
6	way and we'll put this one away.	6 Play again at 314.
7	(Video played.)	7 (Video played.)
8	Q. (BY MR. LUTZ) So pausing at 116. On the	8 Q. (BY MR. LUTZ) We just flashed over another
9	right of the frame who is that on the right?	9 person, so I'm going back. It's between 315, 314, and
10	A. Officer Robinson.	10 315. There's another person now. Do you know who that
11	Q. Okay. And at 116 how far away is he from	11 is?
12	Mr. Harmon?	12 A. I don't.
13	A. Reach out touch him. I have no idea.	13 (Video played.)
14	(Video played.)	14 Q. (BY MR. LUTZ) Paused at 3 minutes 34 seconds.
15	Q. (BY MR. LUTZ) Pausing at 224. Who's that on	15 Do you know who is in this frame that just asked if
16	the far right?	16 you're good?
17	A. On the what?	17 A. I think that's Officer Smith.
18	Q. On the far right of the frame.	18 Q. Okay.
19	A. It should be Officer Robinson.	19 (Video played.)
20	Q. And the left of Officer Robinson?	20 Q. (BY MR. LUTZ) Paused at 4 minutes 21 seconds.
21	A. The officer?	21 Do you know who is standing right here to the right of
22	Q. Yeah.	22 the frame?
23	A. Is Officer Smith.	23 A. No. If I saw their face, I probably would
24	Q. Okay.	24 recognize it, but no.
25	(Video played.)	25 (Video played.)

<p style="text-align: right;">Page 189</p> <p>1 Q. (BY MR. LUTZ) Paused at 428. Is that you who 2 said, "Can I call Brittany?"</p> <p>3 A. Yes.</p> <p>4 Q. That's your wife?</p> <p>5 A. Yes.</p> <p>6 (Video played.)</p> <p>7 Q. (BY MR. LUTZ) Paused at 4 minutes 38 seconds. 8 Do you know who's standing in front of you right here 9 or remember who's standing in front of you right here?</p> <p>10 A. I mean, just by tracking it through the 11 individual, I believe the person on the left is still 12 Officer Smith. I don't know who the person on the 13 right is.</p> <p>14 Q. Okay.</p> <p>15 (Video played.)</p> <p>16 Q. (BY MR. LUTZ) Okay. Paused it at 5 minutes 17 18 seconds. We just hear "Where the fuck's the 18 ambulance at." Was that you or who was that?</p> <p>19 A. I don't think that was me. I don't know who 20 that was, but I don't think it was me.</p> <p>21 Q. Okay.</p> <p>22 (Video played.)</p> <p>23 Q. (BY MR. LUTZ) Okay. Paused it at 6 minutes 24 even. Do you know who that is who just walked up right 25 in the center?</p>	<p style="text-align: right;">Page 191</p> <p>1 whoever it is that he believes he has stopped. 2 (Video played.)</p> <p>3 Q. (BY MR. LUTZ) Just pausing here at 7 minutes 4 1 second. Is that you who just walked up in the middle 5 of the frame?</p> <p>6 A. Yes.</p> <p>7 (Video played.)</p> <p>8 Q. (BY MR. LUTZ) Can you explain that, "We're 9 going to go?"</p> <p>10 A. I'm sorry?</p> <p>11 Q. I think it was we're going to go 89 Fox 2?</p> <p>12 A. We're going to go 82 which is 1082. It's 13 part of the code for taking somebody into custody. Fox 14 2 is for a felony 2 warrant.</p> <p>15 Q. Okay.</p> <p>16 A. And, yeah, I don't know if there's anything 17 else he said.</p> <p>18 Q. Okay. Thank you.</p> <p>19 (Video played.)</p> <p>20 Q. (BY MR. LUTZ) Okay. And I paused at 7 21 minutes 46 seconds. We're looking at Officer Robinson 22 directly in the center of the frame; right?</p> <p>23 A. Yes.</p> <p>24 Q. To Patrick's right.</p> <p>25 (Video played.)</p>
<p style="text-align: right;">Page 190</p> <p>1 A. Officer Robinson.</p> <p>2 (Video played.)</p> <p>3 Q. (BY MR. LUTZ) Paused at 6 minutes 14. Was 4 that you just saying, "I'll grab my knife?"</p> <p>5 A. Yes.</p> <p>6 Q. And what was the other knife that you guys 7 were talking about?</p> <p>8 A. That was the one that Patrick had.</p> <p>9 (Video played.)</p> <p>10 MR. LUTZ: Okay.</p> <p>11 I'm going to pull up HARMON28 which we'll 12 mark as Exhibit 22.</p> <p>13 (Exhibit 22 marked.)</p> <p>14 (Video played.)</p> <p>15 Q. (BY MR. LUTZ) I've shown you a minute of 16 Exhibit 22. Do you recognize this video?</p> <p>17 A. Probably this is Officer Smith's.</p> <p>18 Q. Okay. I'm going to let it play again here at 19 one minute.</p> <p>20 (Video played.)</p> <p>21 Q. (BY MR. LUTZ) I'm going to pause here at 147. 22 The computer screen in the middle of the frame, do you 23 know what Officer Smith is doing on the computer during 24 this sequence?</p> <p>25 A. I'm assuming that he's attempting to look up</p>	<p style="text-align: right;">Page 192</p> <p>1 MR. LUTZ: Okay. Pause there and go back. Pause 2 at 832. Play at 754.</p> <p>3 (Video played.)</p> <p>4 Q. (BY MR. LUTZ) It's difficult to tell, but 5 we're paused at 815. Was that you coming from the 6 right side of the frame?</p> <p>7 A. Yeah, I believe so.</p> <p>8 (Video played.)</p> <p>9 Q. (BY MR. LUTZ) Paused at 816. On the left 10 side of the frame there we're looking at Officer 11 Robinson and Patrick's back?</p> <p>12 A. Yes.</p> <p>13 (Video played.)</p> <p>14 Q. (BY MR. LUTZ) And just a second there, 816, 15 that's Officer Robinson kind of in the distance over 16 there; right?</p> <p>17 A. Yes.</p> <p>18 Q. Patrick running to the right there?</p> <p>19 A. Yes.</p> <p>20 (Video played.)</p> <p>21 MR. LUTZ: Okay. Paused right there at 849.</p> <p>22 Q. (BY MR. LUTZ) We're looking at the 23 outstretched arm on the left side of the frame which 24 should be Officer Smith's arm; right?</p> <p>25 A. Yes.</p>

	Page 193	Page 195
1	Q. And that's his taser --	1 A. I have not.
2	A. Yes.	2 Q. Okay. Okay. We're going to mark HARMON36 as
3	Q. -- in his hand?	3 Exhibit 23.
4	A. Yes.	4 (Exhibit 23 marked.)
5	Q. And you can tell it's been deployed because	5 (Video played.)
6	you can see the coils out; correct (indicating)?	6 Q. (BY MR. LUTZ) Okay. Having played 36 seconds
7	A. I believe so.	7 of this exhibit, do you recognize this video?
8	Q. I'll play a second of the video so you can	8 A. It should be Officer Robinson's video.
9	see the motion.	9 Q. Okay. You've seen it before?
10	(Video played.)	10 A. Yes.
11	Q. (BY MR. LUTZ) That's a yes?	11 Q. Okay.
12	A. Yes.	12 (Video played.)
13	(Video played.)	13 Q. (BY MR. LUTZ) Okay. Pausing that here at
14	Q. (BY MR. LUTZ) Paused at 10 minutes 6 seconds.	14 152, having heard the audio up to this point, does it
15	At this point you've returned with your gloves on?	15 sound distorted to you?
16	A. Yes.	16 A. Yeah.
17	Q. Okay.	17 Q. Has that ever happened in your experience
18	(Video played.)	18 with your body cam audio?
19	Q. (BY MR. LUTZ) Paused at 10 minutes 19	19 A. Not that I'm aware of, but I hardly ever
20	seconds. That's you on the right side of the frame	20 listen to my own video, so I don't know.
21	cutting Mr. Harmon's clothes?	21 Q. Okay. At least on this video it doesn't
22	A. Yes.	22 sound very clear?
23	(Video played.)	23 A. No.
24	Q. (BY MR. LUTZ) Paused at 10 minutes 36	24 (Video played.)
25	seconds. That's you walking in front of Officer	25 Q. (BY MR. LUTZ) Okay. Pause right there at 27
	Page 194	Page 196
1	Smith's camera?	1 minutes 16 seconds. Have you been able to see up to
2	A. Yes.	2 this point the wires connected to the taser barbs from
3	(Video played.)	3 Officer Smith's taser on Mr. Harmon?
4	Q. (BY MR. LUTZ) Paused at 11 minutes 1 second.	4 A. I can see what looks like wires. I don't
5	The frame we paused on is not very good, but just a	5 know if they're connected to the barbs or his taser. I
6	moment ago was that you leaning against the car?	6 mean, yeah, that's clearly a wire there, but.
7	A. Can you go back.	7 Q. Okay.
8	Q. Yeah.	8 (Video played.)
9	A. Sorry. I wasn't focused on that part.	9 Q. (BY MR. LUTZ) Same thing. Does that right
10	(Video played.)	10 there pause at 220 look like a taser barb in
11	Q. (BY MR. LUTZ) Right there.	11 Mr. Harmon's chest area?
12	A. Yeah, that's me.	12 A. Yeah, that looks like an actual barb.
13	(Video played.)	13 Q. So --
14	Q. (BY MR. LUTZ) Paused at 11 minutes 30	14 A. Yes.
15	seconds. Do you recognize this gentleman in the yellow	15 Q. -- this barb made contact with his chest
16	iridescent shirt?	16 area?
17	A. His face is too blurry right there. I'm not.	17 A. Looks like it.
18	Q. You don't have any independent recollection	18 (Video played.)
19	of who that was?	19 Q. (BY MR. LUTZ) Pause right there at 350. Up
20	A. No.	20 in the top left corner of the screen you see these two
21	Q. Okay.	21 hands surrounding Mr. Harmon? What is that officer
22	(Video played.)	22 doing?
23	Q. (BY MR. LUTZ) Okay. Have you seen any	23 MS. NICHOLS: Objection.
24	versions of that video that are longer than what we	24 THE WITNESS: Can you -- can I -- yeah.
25	just watched?	25 Q. (BY MR. LUTZ) Play a little more?

1 A. Sure. 2 (Video played.) 3 THE WITNESS: Yeah, that's a tourniquet. 4 MR. LUTZ: Pause it right there at 354. 5 Q. (BY MR. LUTZ) That officer is applying a 6 tourniquet to Mr. Harmon's thigh? 7 A. It looks like it. 8 Q. Okay. 9 (Video played.) 10 Q. (BY MR. LUTZ) Pausing again here at 4 minutes 11 32 seconds. Right there, dead center of the frame, 12 that's the same taser probe we were looking at, right, 13 in the middle of Mr. Harmon's chest; right? 14 A. I believe so. 15 Q. Okay. Play again. 16 (Video played.) 17 MR. LUTZ: Back 10 seconds. Again, playing it 18 forward to 350, pay attention to where the taser barb 19 is. 20 (Video played.) 21 MR. LUTZ: Right there. 22 Q. (BY MR. LUTZ) Did you see -- could you see 23 the taser barb connected under his shirt into his skin? 24 A. Yes. 25 Q. Okay.	Page 197	Page 199 1 Q. You gave your first statement as to what 2 happened on August 18th; is that right? 3 A. If you're asking me, I don't know the actual 4 date. There's the paperwork if you want me to check 5 it, but I don't remember, yeah. 6 Q. Let's go back to the exhibit if I have it. 7 Yeah, August 18th, 2017. I'm looking at SLCC121. Who 8 did you talk to about what happened on the night of 9 August 13th, 2017? Between that night and August 18th, 10 2017. 11 A. My attorney. 12 Q. That's it? 13 A. That's it. 14 Q. Talk to your wife? 15 A. I talked to my wife, but I didn't really want 16 her to know what had happened. So she knows that I was 17 involved in a shooting. She didn't know -- I didn't 18 know how anything was going to turn out, so kind of 19 wanted her to not know much. 20 Q. Okay. Did you talk to Officer Robinson? 21 A. No. 22 Q. No phonecalls? 23 A. No. So we met the day after. No phone 24 calls, no text. We didn't talk about the case. 25 Q. Okay. Text messages?	Page 198
1 (Video played.) 2 Q. (BY MR. LUTZ) Okay. So you said you've seen 3 that before. Have you seen any longer version of 4 Officer Robinson's body cam footage from that night? 5 A. No. 6 Q. The area where you encountered Mr. Harmon 7 where all the officers and kind of Mr. Harmon is on 8 State Street there, is that a relatively high crime 9 area for this city? 10 MS. NICHOLS: Objection. 11 THE WITNESS: I mean, if you go further -- it's 12 all relative. If you go further south, it's worse on 13 that particular spot. I mean, not really, but that 14 whole length of State Street is worse than other parts 15 of the city or state. It just depends on how far away 16 from it you get. 17 Q. (BY MR. LUTZ) Okay. Makes sense. And I 18 don't mean -- to just clarify, I don't mean 19 statistically. I just mean in your experience as an 20 officer. 21 A. That was the first time I'd ever been on that 22 block probably on any kind of stop. 23 Q. Okay. So the encounter with Mr. Harmon took 24 place on August 13th, 2017; right? 25 A. Yes.	Page 198	Page 200 1 A. No. 2 Q. What about with Officer Smith? 3 A. Same thing. 4 Q. So you and Officer Robinson met the next day? 5 A. All three of us did. 6 Q. Okay. What prompted that? 7 A. They wanted to check and make sure I was 8 doing okay I think. 9 Q. Where did you guys meet? 10 A. At my house. 11 Q. Okay. Who initiated that meeting? 12 A. I think they did. 13 Q. Okay. Do you remember what time it was that 14 they came over? 15 A. Early morning. I don't remember what time. 16 Q. Just the three of you? 17 A. Uh-huh. 18 Q. Okay. And you did not talk about this? 19 A. Did not. 20 Q. Okay. In August of 2017 who else was on your 21 squad at that time? 22 A. Like I said, I know it was us three. There 23 was Josie and I know there was at least two others, but 24 I couldn't give you names. 25 Q. Okay. Who's Josie? Do you have a last name?	Page 200

<p style="text-align: right;">Page 201</p> <p>1 A. Oh. It was "Frout" at the time. She's since 2 married. I'm not sure. Collins. Sorry. I think her 3 last name's Collins now. 4 Q. We've talked about it many times, but you 5 never saw the knife you believe Mr. Harmon had at the 6 scene after you shot him? 7 MS. NICHOLS: Objection, asked and answered. 8 THE WITNESS: Sorry. Can I make one correction? 9 MR. LUTZ: Yeah. 10 THE WITNESS: I don't think Josie was actually on 11 my squad. She was on a covering squad. So we just 12 actually worked the same area, but she was for a 13 different sergeant. Sorry. 14 Q. (BY MR. LUTZ) Okay. No problem. I 15 appreciate the correction. What is a covering squad, 16 just for clarification? 17 A. So my sergeant at the time was Bret Hatch and 18 so I bid that shift and he's got certain days off; 19 right? So I'm assigned to that particular zone within 20 a beat, or the beat within a zone, and me, Kris and 21 Scott were all on the same squad, just bid different 22 beats, but same zone. 23 She worked for I believe it was actually 24 Sergeant Sweeny and happened to bid the same -- I think 25 she was the same beat as one of the three of us in the</p>	<p style="text-align: right;">Page 203</p> <p>1 after the fact, so. 2 Q. (BY MR. LUTZ) Is there a policy or procedure 3 that applies to that situation? 4 A. No, not that requires it. 5 Q. Okay. Would you ordinarily pat a suspect 6 down before handcuffing them and taking them into 7 custody? 8 MS. NICHOLS: Objection. 9 THE WITNESS: No. 10 Q. (BY MR. LUTZ) Would you pat them down after 11 you handcuff them and were taking them into custody? 12 A. Yes. 13 Q. What's the rationale for that, you doing it 14 after, but not before? 15 MS. NICHOLS: Objection. 16 THE WITNESS: I think a lot of it is, I mean, 17 dealer stories; right? If I wanted to try to do it 18 prior to, I could. My rationale would be if I can get 19 you into handcuffs sooner, then pat you down, any 20 potential for you to get weapons is negated by you 21 being in handcuffs. So, I mean, that's one potential 22 reason that you would potentially apply to it. 23 Q. (BY MR. LUTZ) Okay. I noticed in the body 24 cam footage that we watched earlier that you were 25 wearing glasses.</p>
<p style="text-align: right;">Page 202</p> <p>1 same zone, but she was actually for a different 2 sergeant. We just worked the same area. So we 3 frequently worked together the same area, but on the 4 same squad. Sorry. 5 Q. Okay. Do you know if any testing was done on 6 the knife recovered at the scene to determine the 7 presence of fingerprints? 8 A. I have no idea. 9 Q. And do you know if any testing was done on 10 the knife recovered at the scene to determine the 11 presence of any DNA? 12 A. I have no idea. 13 Q. Okay. Give me just a second. Want to take a 14 short break? 15 MS. NICHOLS: That's great. 16 3:53-406. 17 (Recess taken from 3:53 p.m. to 4:06 p.m.) 18 Q. (BY MR. LUTZ) On the night of the 13th of 19 August 2017 when you first arrived and contacted 20 Mr. Harmon, did you pat him down? 21 A. I did not. 22 Q. Did any of the other officers pat him down? 23 MS. NICHOLS: Objection. 24 THE WITNESS: At the time I had no idea if Kris 25 had prior to me getting there. Obviously nobody did</p>	<p style="text-align: right;">Page 204</p> <p>1 A. Yes. 2 Q. You're not today. 3 A. Uh-huh. 4 Q. Are you wearing contacts? 5 A. No. 6 Q. Lasik? 7 A. No. 8 Q. Just your vision's fine? 9 A. Yes. 10 Q. What's your prescription? 11 A. I am slightly nearsighted, so I use them to 12 read license plates and street signs. 13 Q. Okay. Do you know what numerically your 14 prescription is? 15 A. No. It's minor. 16 Q. Okay. You're not required to wear 17 prescription lenses to drive? 18 A. No. 19 Q. Okay. In your patrols today do you have 20 access to the Axon app on your phone? 21 A. Yes. 22 Q. And does that allow you to view body camera 23 footage immediately? 24 A. Yes. 25 Q. Did you have access to an app like that in</p>

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<p>1 August of 2017?</p> <p>2 A. Not on my phone I don't think.</p> <p>3 Q. In some other capacity?</p> <p>4 A. I think if I plugged it into a computer, I</p> <p>5 could have watched it.</p> <p>6 Q. Okay. Have you ever done that?</p> <p>7 A. I think I've viewed body camera before, yeah.</p> <p>8 Q. And there was no prohibition on it by policy</p> <p>9 of just plugging in and watching your own body cam</p> <p>10 footage?</p> <p>11 A. There was no what?</p> <p>12 Q. Prohibition.</p> <p>13 A. No. I think it was actually encouraged.</p> <p>14 Q. Okay. Have you ever been to Price, Utah?</p> <p>15 A. Probably -- I don't know. Honestly. I don't</p> <p>16 know where Price is.</p> <p>17 Q. You never lived in Price, Utah?</p> <p>18 A. No.</p> <p>19 Q. Did your wife?</p> <p>20 A. No.</p> <p>21 Q. Do you know anyone who's ever worked in</p> <p>22 Price, Utah?</p> <p>23 MS. NICHOLS: Objection.</p> <p>24 THE WITNESS: No.</p> <p>25 Q. (BY MR. LUTZ) To your knowledge, do you know</p>	<p>1 THE WITNESS: Yes.</p> <p>2 Q. (BY MR. LUTZ) In your training and</p> <p>3 experience?</p> <p>4 A. Yes.</p> <p>5 Q. Now, I know we talked about totality of the</p> <p>6 circumstances and the context of independent responses;</p> <p>7 right? That's a big part of your training. But is</p> <p>8 deadly force called for at any time that you're going</p> <p>9 to encounter a suspect with a knife?</p> <p>10 MS. NICHOLS: Objection.</p> <p>11 THE WITNESS: No.</p> <p>12 Q. (BY MR. LUTZ) Okay. What are the core values</p> <p>13 at the Salt Lake City Police Department?</p> <p>14 MS. NICHOLS: Objection.</p> <p>15 THE WITNESS: I have no idea. I think they all</p> <p>16 start with Cs for some ease of reference, but I don't</p> <p>17 remember them.</p> <p>18 Q. (BY MR. LUTZ) After the incident, the Patrick</p> <p>19 Harmon incident, were you put on -- were you removed</p> <p>20 from patrol?</p> <p>21 A. I mean, if the question is whether I was put</p> <p>22 on administrative leave, yes.</p> <p>23 Q. Okay. And what did administrative leave</p> <p>24 entail?</p> <p>25 A. Like as far as?</p>
<p>Page 206</p> <p>1 anyone whose ever worked for Castleview Hospital?</p> <p>2 MS. NICHOLS: Objection.</p> <p>3 THE WITNESS: No.</p> <p>4 Q. (BY MR. LUTZ) Have you ever worked for</p> <p>5 Castleview Hospital?</p> <p>6 A. No.</p> <p>7 Q. Has your wife ever worked for Castleview</p> <p>8 Hospital?</p> <p>9 A. No.</p> <p>10 Q. Do you have any idea if either Officer</p> <p>11 Robinson or Officer Smith worked for Castleview</p> <p>12 Hospital at any point in time?</p> <p>13 A. I have zero idea.</p> <p>14 Q. Okay. The moment Mr. Harmon took off, why</p> <p>15 didn't you try a taser?</p> <p>16 A. I thought I was going to be able to get to</p> <p>17 him and tackle him.</p> <p>18 Q. If that's the case, then why did you draw</p> <p>19 your gun?</p> <p>20 A. Because he said he was going to cut Scott and</p> <p>21 then started reaching for his pocket, so I believed he</p> <p>22 was armed with something that would cut somebody.</p> <p>23 Q. And in that situation, that calls for deadly</p> <p>24 force?</p> <p>25 MS. NICHOLS: Objection.</p>	<p>Page 208</p> <p>1 Q. What were you doing at work?</p> <p>2 A. So for the first few weeks, nothing.</p> <p>3 Q. Were you at work at all?</p> <p>4 A. I was required to check in every day, and I</p> <p>5 would check in at the beginning of the day and check</p> <p>6 off at the end of the day.</p> <p>7 Q. Literally nothing between?</p> <p>8 A. Literally nothing in between. I was -- I was</p> <p>9 meant to be the head of the immediate response of the</p> <p>10 department. I was at will to them any time they needed</p> <p>11 me between those hours, but I did nothing. I worked</p> <p>12 out quite a bit.</p> <p>13 Q. Okay. When did you come off administrative</p> <p>14 leave? Go ahead.</p> <p>15 A. Sorry. That was only for one week.</p> <p>16 Q. Okay.</p> <p>17 A. I actually went to a training that I had</p> <p>18 signed up for prior to that at the beginning of the</p> <p>19 second, roughly, the second week of my leave. So I</p> <p>20 actually did, but that was only for about a week that I</p> <p>21 did it, and then I started the training.</p> <p>22 Q. What was the training on?</p> <p>23 A. Basic narcotics investigation.</p> <p>24 Q. Do you have any regrets about what happened</p> <p>25 with Mr. Harmon?</p>

	Page 209		Page 211
1	MS. NICHOLS: Objection.	1	WITNESS CERTIFICATE
2	THE WITNESS: Yes.	2	I, CLINTON FOX, HEREBY DECLARE:
3	MR. LUTZ: Okay. That's all I have. Thank you	3	That I am the witness referred to in the
4	for being here today.	4	foregoing deposition, and that I have read the
5	THE WITNESS: Thank you.	5	foregoing deposition testimony and have made any
6	MS. NICHOLS: I have no questions. The witness	6	changes/corrections I deem necessary below and
7	would like to read and sign, please.	7	together the same truly and accurately reflect my
8	(The proceedings ended at 4:15 p.m.)	8	testimony.
9	- - -	9	PAGE-LINE: CHANGE/CORRECTION REASON:
10		10	_____
11		11	_____
12		12	_____
13		13	_____
14		14	_____
15		15	_____
16		16	_____
17		17	_____
18		18	_____
19		19	I, CLINTON FOX, hereby declare under the penalties
20		20	of perjury of the laws of the United States of America
21		21	and the laws of the State of Utah that the foregoing is
22		22	true and correct.
23		23	DATED _____, 20_____. CLINTON FOX
24		24	
25		25	
	Page 210		
1	STATE OF UTAH)		
2) ss.		
2	COUNTY OF SALT LAKE)		
3	REPORTER'S CERTIFICATE		
4	I, Amanda Richards, certified shorthand reporter		
5	for the State of Utah, certify:		
6	That the deposition of the witness herein was		
7	taken before me at the time and place herein set forth,		
8	at which time the witness was by me duly sworn to		
9	testify the truth; that the testimony of the witness		
10	and all objections made and all proceedings had of		
11	record at the time of the examination were		
12	stenographically reported and transcribed by me.		
13	That the foregoing transcript, as transcribed by		
14	me, is a full, true and correct record of my		
15	stenographic notes so taken; that review of the		
16	transcript by the witness was requested pursuant to		
17	Rule 30(e) of the Utah Rules of Civil Procedure.		
18	I further certify that I am neither counsel for		
19	nor related to any party to said action, nor in anywise		
20	interested in the outcome thereof.		
21	IN WITNESS WHEREOF, I have subscribed my name		
22	below this 5th day of July 2022.		
23	<u>Amanda Richards</u>		
24	Amanda Richards, CSR		
25			